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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,906	07/13/2000	Jeffrey M. Smith	SMIT-2916	3888

5409 7590 05/06/2004

ARLEN L. OLSEN
SCHMEISER, OLSEN & WATTS
3 LEAR JET LANE
SUITE 201
LATHAM, NY 12110

EXAMINER
TENTONI, LEO B

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 05/06/2004

9

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

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Paper No. 9

In re Patent No. 6,500,378	:	
Issue Date: December 31, 2002	:	**DECISION DISMISSING**
Appl. No.: 09/615,906	:	**PETITION**
Filed: July 13, 2000	:	*37 CFR 1.324*
For: Method and Apparatus for Creating Three-	:	
Dimensional	:	
Objects by Cross-Sectional Lithography	:	
	:	

This is a decision on the petition filed April 15, 2003 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.
A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s): 1. a statement from the current named inventors either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change; 2. a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and 3. the fee set forth in 37 CFR 1.20(b) .

Michael Colaianni
Supervisory Patent Examiner
Art Unit 1732
Technology Center 1700

ARLEN L. OLSEN
SCHMEISER, OLSEN & WATTS
3 LEAR JET LANE
SUITE 201
LATHAM, NY 12110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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3/8/06

In re Patent No. SMITH, JEFFREY M.	:	
Issue Date: December 31, 2002	:	**DECISION GRANTING**
Appl No.: 09/615,906	:	**PETITION**
Filed: July 13, 2000	:	*37 CFR 1.324*
For: Method and Apparatus for Creating Three-Dimensional Objects by Cross-Sectional Lithography	:	

This is a decision on the petition under 37 CFR 1.48, filed May 21, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition 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.

Michael Colaianni
Supervisory Patent Examiner
Art Unit 1732
Technology Center 1700

ARLEN L. OLSEN
SCHMEISER, OLSEN & WATTS
3 LEAR JET LANE
SUITE 201
LATHAM, NY 12110

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,922	07/13/2000	George K. Korinsky	884.298US1	4024

21186 7590 05/21/2004

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER
THOMPSON, GREGORY D

ART UNIT	PAPER NUMBER
2835	

DATE MAILED: 05/21/2004

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

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

In re Application of

Korinsky et al

Serial No.: 09/615922

Filing Date: 07/13/2000

DECISION
VACATING
NOTICE OF ABANDONMENT

The Petition has been **Granted** for this application. As such, it is appropriate to vacate the Notice of Abandonment.

The Notice of Abandonment mailed 04/20/04 is **VACATED.**

The application has been restored to a pending status, to receive further consideration by the examiner in the normal course of business.

L. Sprull
Group 2800,Tech. Support

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

COPY MAILED

AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Kenji Shimazaki et al :
Application No. 09/615,938 : ON PETITION
Filed: July 13, 2000 :
Attorney Docket No. 32809

This is a decision on the petition, filed August 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 9, 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 2857 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 08, 2007

TO SPE OF : ART UNIT 2194

09/615973

SUBJECT : Request for Certificate of Correction on Patent No.: 7086067 B1

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

_____ **SPE**

2194 **Art Unit**

Docket No.: END920000082US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James R. Wason

Group Art Unit: 2194	:	IBM Corporation
Examiner: Charles E. Anya	:	Intellectual Property Law
Serial No.: 09/615,973	:	Dept. SHCB, Bldg. 040-3
Filed: 07/14/00	:	1701 North Street
Confirmation No. 6535	:	Endicott, NY 13760
Title: DYNAMIC JAVA BEAN FOR VISUALAGE FOR JAVA	:	

U.S. Patent No.: 7,086,067 B1

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Please Enter
CA
4/26/07

Please make change(s) in the above-identified patent as noted below:

In the Title:

Change "DYNAMIC JAVA BEAN FOR VISUALAGE FOR JAVA" to --METHOD OF MANAGING APPLICATION DEFINITIONS USED IN A COMPUTER PROGRAM--.

Attached hereto is form PTO/SB/44. Please send the Certificate of Correction to the undersigned. Please charge any applicable fees to Deposit Account No. 09-0457.

Respectfully submitted,

Dated: 19 JAN 2007

By: William E. Schiesser

William E. Schiesser
Reg. No. 53,559

Telephone: (607)429-3917
Fax No: (607)429-4119

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6794557	2004-09-21	09/615,978	2000-07-14	

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	/ALLEN E. WHITE/	Date (YYYY-MM-DD)	2009-03-13
Name	ALLEN E. WHITE	Registration Number	55727

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
P.O. Box 1450
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In re Patent No. 6794557
Issue Date: September 21,2004
Application No. 09615978
Filed: July 14,2000
Attorney Docket No. AHP-P01880US1

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

This is a decision on the electronic petition, filed March 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 13,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MATTINGLY, STANGER & MALUR
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

MAILED

AUG 1 2003

OFFICE OF DIRECTOR
GROUP

In re Application of)
Masayoshi Ishibashi et al)
Application No. 09/616,076)
Filed: July 13, 2000)
For: PROBE FOR SCANNING PROBE)
LITHOGRAPHY AND MAKING)
METHOD THEREOF)

DECISION ON PETITION

This is a decision on the petition, filed July 17, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of September 13, 2001. A Notice of Abandonment was mailed on July 8, 2002.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of an amendment along with a request for approval of proposed drawing changes, a change of address and a check of $84.00 to cover the additional claim fee by the Patent and Trademark Office (Office) on December 13, 2001.

The review of the application file reveals that the papers received December 13, 2001 were not associated with the application filed. The record indicates that a supplemental amendment was received on February 20, 2002, wherein claims 6 and 14 were amended.

The evidence establishes that a timely response was filed but lost after receipt thereof. Inconvenience to the applicant is regretted.

For above stated reasons, the Notice of Abandonment is hereby vacated and the holding of

abandonment withdrawn. Inconvenience to petitioner is regretted.

The copy of the response submitted on July 17, 2002 is accepted since the Office has apparently misplaced the response originally submitted.

The application file is being forwarded to the technical support staff for processing the response. From there, it will be returned to the examiner for further prosecution.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Mark B. Solomon
SolVisions Technologies Int'l
82 Albemarle Road
Norwood, MA 02062

OCT 31 2000

In re Application of: Mark B. Solomon
Application No.: 09/616,106
Filed: July 14, 2000
For: MULTIPLEXER HARDWARE AND SOFTWARE FOR CONTROL OF A DEFORMABLE MIRROR

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed July 14, 2000 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment; household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition does not meet the requirements for special status in that there is no showing that the invention materially contributes to the conservation of energy resources as required in (B). Applicant indicates that the multiplexer is used in nuclear fusion generation systems, but does not indicate how the multiplexer itself contributes to the conservation of energy in such systems.

The petition is DENIED.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above.

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

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 5

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

FOLEY, HOAG & ELIOT, LLP
PATENT GROUP
ONE POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of
Morgan, et al.
Application No. 09/616,214
Filed: July 14, 2000
Attorney Docket No. CKC-014.01

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 5, 2001, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Frederick Morgan
2. Michael Blackwell
3. Kevin Dowling
4. Ihor Lys

The Office records have been corrected to reflect the change of the order of inventorship indicated above.

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

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

Christina Tartera

Christina T. Tartera
Petitions Attorney
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 : 09/09/08

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 09616223 Patent No.: 6846799

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: All changes approved.

[signature]

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit
JAMES DOUGLAS SCHULTZ	1635

PAGE 2/2 * RCVD AT 9/15/2008 4:33:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/18 * DNIS:2709990 * CSID: * DURATION (mm-ss):01-02

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JUN 23 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

James H Beusse Esquire
Holland & Knight LLP
P.O. Box 1526
Orlando, FL 32802-1526

In re Application of Evan E. Dussia Application No. 09/616,276 Filed: July 14, 2000 For: COMPUTERIZED METHOD AND SYSTEM FOR OBTAINING, STORING AND ACCESSING MEDICAL RECORDS	: : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on March 8, 2004.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to a final Office action mailed June 6, 2003 and a Notice to that effect was mailed February 24, 2004.

Applicant states that a response to the final Office action was originally transmitted by facsimile on August 6, 2003 and that a copy of that response was retransmitted on December 8, 2003 after the examiner inquired as to whether a response had been filed. It appears from the record that the response filed on December 8, 2003 was improperly accorded the earlier filing date and the examiner issued an Advisory action on December 24, 2003 in reply thereto. The examiner had no authority to accept the copy of the amendment since it was a late paper. Such a submission needed to be treated as a petition to withdraw the holding of abandonment. Since the period to reply to the final Office action had already expired, on December 8, 2003 the application was abandoned. Consequently, the Advisory action of December 24, 2003 is hereby vacated.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must provide the following:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petitions (the submissions of December 8, 2003 and March 8, 2004) fail under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

It is unclear why the applicant felt that the response period to the final rejection would be "reset" by the filing of the copy of the lost paper on December 8, 2003, as no such "resetting" was proper then, and none will occur now. So, assuming that the applicant can meet the requirements of 37 CFR 1.8(b)(3), unless the examiner decides to backtrack on the stance taken in the vacated Advisory action and allow the case, the application will remain abandoned. A petition to revive would be the recommended course of action in such a case.

With regards to non-receipt of the Advisory action, it is noted that the address of record does not correspond with the address appearing in the petition. It is further noted that the petition includes a copy of a request filed October 30, 2002 to change the correspondence address. This request was never received. Even if the request was received, it would not have been accepted because applicant failed to check the appropriate box indicating what the new address is. For the purposes of answering this petition, a copy of this response is being mailed to the address in the petition. However, the correspondence address of record remains unchanged and applicant must submit a proper change of address to receive future communications at this address.

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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

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

SNM/mjz: 5/20/04

Cc: James H Beusse Esquire
Beusse, Brownlee, Wolter, Mora & Maire, P.A.
390 N. Orange Avenue, Suite 2500
Orlando, FL 32801

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. 16

Beusse Brownlee Wolter Mora & Maire, P.A.
390 N. Orange Avenue, Suite 2500
Orlando, FL 32801

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OFFICE OF PETITIONS

In re Application of	:	
Evan E. Dussia	:	
Application No. 09/616,276	:	ON PETITION
Filed: July 14, 2000	:	
Attorney Docket No. 065489-001	:	

This is a decision on the petition under 37 CFR 1.137(a), filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has demonstrated to the satisfaction of the Director that the delay in submitting a timely reply to the outstanding Office action was unavoidable.

The application file is being forwarded to Technology Center 3600.

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 Examination Policy

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Beusse Brownlee Wolter Mora & Maire, P.A.
390 N. Orange Avenue, Suite 2500
Orlando, FL 32801

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OFFICE OF PETITIONS

In re Application of	:	
Evan E. Dussia	:	
Application No. 09/616,276	:	ON PETITION
Filed: July 14, 2000	:	
Attorney Docket No. 065489-001	:	

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.137(a), filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The previous decision mailed October 22, 2004, failed to inform petitioner the time period for filing an appeal brief in response to the Notice of Appeal filed with the instant petition.

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 Office wishes to apologize for the error in the previous decision. Any inconvenience to petitioner is regretted.

The application file is being referred to Technology Center 3600.

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 Examination Policy

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. 15

Nutter, McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210

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NOV 0 6 2003

OFFICE OF PETITIONS

In re Application of
Edward L. Sinofsky, et. al.
Application No. 09/616,303
Filed: July 14, 2000
Attorney Docket No.101327-146

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed October 9, 2003, to revive the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of April 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Since the amendment filed June 5, 2003, did not *prima facie* place the application in condition for allowance, the application became abandoned after midnight July 3, 2003.

In response to the final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, and an Request for Continued Examination (RCE), along with $385 for the filing fee.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application is being forwarded to Technology Center 3700, for processing the Request for Continued Examination under 37 CFR 1.114, and for consideration of the amendment previously filed on June 5, 2003.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MAIL

JUN 1 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Mattingly, Stanger & Malur
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

In re Application of:
M. Kuwahara et al.
Application No.: 09/616,314
Filed: July 17, 2000
For: WIRELESS POSITIONING MEANS, WIRELESS POSITIONING APPARATUS AND MOBILE POSITION CONTROL CENTER APPARATUS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 22, 2002, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

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

The petition meets the above stated 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR
101 CRAWFORDS CORNER ROAD -
ROOM 3J-219
HOLMDEL, NJ 07733

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NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Horn et al.	:	DECISION ON
Application No. 09/616,408	:	PETITION
Filed: July 14, 2000	:	
Atty Docket No. HORN 10-2-3	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 22, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed January 28, 2005. No extensions of time are permitted for submitting such drawings. (Applicant timely submitted the required Issue Fee). No timely reply having been received, the above-identified application became abandoned on April 29, 2005. A Notice of Abandonment was mailed on August 4, 2005.

Applicants have met the requirements for revival based on unintentional delay. The petition includes the submission of corrected drawings, the petition fee set forth in 37 CFR 1.17(m), and the required statement of unintentional delay.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publications for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

Edward M. Arons
FISH & NEAVE
1251 Avenue of the Americas
New York, NY 10020-1104

In re Application of:	)	
Whitney Durand	)	
Application No. 09/616,472	)	**DECISION ON REQUEST FOR**
Filed: January 9, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHODS OF DEVELOPING AND ADMINISTERING ADVANCE DIRECTIVES	)	

This is a decision on the Request To Withdraw from Representation filed January 9, 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 January 9, 2002 meets all the requirements. Accordingly the requestis **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: K. Wood Herren
BRADLEY ARANT ROSE & WHITE LLP
2001 Park Place, Suite 1400
Birmingham, Alabama 35203

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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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of
Whitney DURAND
Application No. 09/616,472
Filed: July 14, 2000
Attorney Docket No. **PA4507US**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 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 12, 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 May 13, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final office action of February 12, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3687 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

GIRMA WOLDE MICHAEL
MEDTRONIC INC
7000 CENTRAL AVENUE NE
MINNEAPOLIS, MN 55432

In re Application of :
David D. Verness :
Application No. 09/616,592 : ON PETITION
Filed: July 14, 2000 :
Attorney Docket No. P-4824.06 CON :

The above-identified application has been referred to the Office of Petitions for consideration of a communication filed February 11, 2009, requesting consideration of a Petition to Withdraw Holding of Abandonment, filed September 30, 2002[1]. The petition is being treated under the provisions of 37 CFR 1.181 (no fee).

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Michael C. Soldner appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Soldner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to Mr. Soldner, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This application was held abandoned for a failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed April 22, 2002, which set a period for reply of three (3) months. Accordingly, a reply was due on or before July 22, 2002.

Petitioner states that a timely reply was mailed via certificate of mailing on July 22, 2002. To support this assertion, petitioner submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 13, 2002 of, *inter alia,* Ten (10) Sheets of Formal Drawings. A copy of the previously submitted reply, bearing a certificate of mailing dated July 22, 2002, accompanies the petition.

[1] The original petition is found among the papers found in the application file.

A review of the written record confirms receipt of the submission of formal drawings filed on August 13, 2002, using a Certificate of Mailing under 37 CFR 1.8 dated July 22, 2002, as they are present in the application file. Accordingly, the drawings are considered timely received in the USPTO and no abandonment existed.

The holding of abandonment for failure to timely file a response to the Notice of April 22, 2002 is withdrawn and the application is restored to pending status. The Notice of Abandonment mailed September 9, 2002 is hereby vacated.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL C. SOLDNER
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 11

MAIL

JUN 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

In re Application of: Paul W. Dent Application No. 09/616,637 Filed: July 26, 2000 For: SATELLITE COMMUNICATIONS SYSTEM USING MULTIPLE EARTH STATIONS	)))))	**DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144**

This is a decision on the petition filed October 27, 2003 (Certificate of Mailing dated October 7, 2003) under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement.

The petition is **DENIED**.

On January 15, 2003 the examiner required restriction between Invention I, claims 1-35, drawn to antenna diversity classified in class 455, subclass 13.3 and Invention 2, claims 36-50, drawn to multiplexing, classified in class 370, subclass 315. The examiner further provided a requirement that if Invention 1 is elected, claims 2-6, 13-20, 24-25, and 27-32 are drawn to a first species and claims 7-12, 21-23, and 33-35 are drawn to a second species; wherein claims 1 and 26 were identified as generic claims.

The rationale used by the examiner in support of the restriction requirement included explanation that the 2 groups of claims are related as subcombinations which are distinct from each other if they can be shown to be separately useable. The examiner stated that the second group of claims has separate utility as multiplex communication.

On February 19, 2003 applicant elected the claims of Invention I, and further elected the claims of the first species of claims, while traversing the requirement. Applicant argued independent claims 36 and 41 recite "feeder link antennas" and that therefore, while both claims 36 and 41 recite multiplexer/demultiplexer features to process the received feeder signals to translate the feeder link signals into something useful; they are also

drawn to antenna diversity. Applicant cites similar arguments for independent claims 47 and 50.

On May 2, 2003, the examiner maintained the restriction requirement making it Final while rejecting elected claims 1-6, 13, 15-19 and 24-25 in a non-final Office action, also indicating that claims 14 and 20 contain allowable subject matter.

On July 16, 2003, applicant filed a response arguing the against the rejection set forth in the non-final Office action mailed May 2, 2003.

On September 25, 2003, the examiner mailed a communication informing the applicant that the application is in condition for allowance except for the presence of claims 36-50, non-elected with traverse; and giving applicant 30 days to cancel the non-elected claims or to take other appropriate action (37, CFR 1.144).

On November 4, 2003, petitioner filed the instant petition.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.181 states:

> (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 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 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.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:
(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

Petitioner repeats arguments that independent claims 36, 41, 47 and 50 of Invention II are drawn to "antenna diversity" and therefore are not distinct from the claims of Invention I. Petitioner also argues that because both sets of claims deal with satellite communications between ground stations and mobile stations, via the use of antenna diversity, the claim sets are not patentably distinct.

In response, it is noted that receiving feeder link signals from at least two ground stations does not necessarily include antenna diversity, specifically *"polarization diversity"* as required by claims 1 and 26 of Invention I. In other words, Invention I relates to transmission and reception via ***polarization diversity*** with the satellite. There are no recitations of "***polarization diversity***" in claims 36, 41, 47 or 50. In fact, Invention II relates to the concept of ground station control or the manner in which to obtain antenna array or power amplifier drive signals. According to the specification at page 3, this invention permits multiple ground statations to use the satellites in a manner complementary to ground-based beamforming. Therefore, the examiner properly found that claims 1-35 and 36-50, respectively are drawn to different inventive concepts (subcombinations) which are patentably distinct for the reasons discussed above, and as shown by separate classification and fields of search.

For the above reasons, the petition is **DENIED** and the restriction requirement is deemed to be proper.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. If applicant decides not to file a request for reconsideration of this decision, then an amendment canceling non-elected claims 36- 50 must be timely filed in order for the examiner to allow the case. The application will be held to await a response.

Andrew Faile

Andrew Faile, Director (ACTING)
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

Patent No. : 7,165,065 B1
Serial No. : 09/616643
Inventor(s) : Welton et al.
Issued : June 16, 2007
Title : **MULTIDIMENSIONAL DATABASE STORAGE AND RETRIEVAL SYSTEM**
Docket No. : **12962.0008.DVUS01**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

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

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

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

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

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

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

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

ecw

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 2/17/2009
Patent No.	: 7,165,065 B1
Serial No.	: 09/616,643
Inventor(s)	: Welton et al.
Issue Date	: June 16, 2007
Title	: **MULTIDIMENSIONAL DATABASE STORAGE AND RETRIEVAL SYSTEM**
Doc./File No.	: **OID06-33(18301)**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error in your request, once again, your request for a certificate of correction for the alleged error in the item (73) Assignee:, is denied. You have not filed a petition as instructed in the prior letter from this office dated 9/29/2008. The certificate of correction branch is authorized to grant only the information supplied on box 3 of the issue fee transmittal (85-B), unless it is of a spelling or grammatical issue. All after the issue fee payment requires the filing of a petition and must be granted by the petition's office itself.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
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1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

ecw

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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
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1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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APR 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,165,065 :
Issue Date: January 16, 2007 :
Application No. 09/616,643 : ON PETITION
Filed: July 14, 2000 :
Attorney Docket No. OID06-33(18301) :

This is a decision on the petition filed March 18, 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) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAIL

MAR 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of
Hiroyuki SAITO
Application No. 09/616,672
Filed: July 14, 2000

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

For: **APPARATUS AND METHOD FOR DESIGNING COMMUNICATION PATHS OF TREE STRUCTURE**

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181(a) filed December 3, 2004. No fee is required.

This application is in an abandoned status for failure to respond to the non-final Office action mailed November 19, 2003. A Notice of Abandonment was mailed September 3, 2004.

Petitioner alleges non-receipt of the non-final Office action mailed November 19, 2003. In support of the petition, petitioner has provided a statement that the office communicated was not received by the petitioner. In addition, attached to and reference in the petition is a copy of the docket record where the non-received office communication would have been entered had it been received and docketed.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action.

The Notice of Abandonment is vacated and 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 re-mailing of the non-final Office action originally mailed on November 19, 2003. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr.:03-01

Paper 6

NICK SEVASTIAN
1095 RIVERSIDE DR.
E. WINDSOR, ONTARIO
CANADA N9A 2T6

COPY MAILED

MAR 0 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Sevastian
Application No. 09/616,746
Filed: 14 July, 2000
For: LENS

LETTER

Dear Nick Sevastian:

You are named as 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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the Petitions Attorney John J. Gillon, Jr., at (703)305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JEFFREY THURNAU
THE GATES CORPORATION
MAIL STOP 31-4-1-A3
900 S. BROADWAY
DENVER, CO 80209

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UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JJGJr.:03-01

Paper 5

JEFFREY THURNAU
THE GATES CORPORATION
MAIL STOP 31-4-1-A3
900 S. BROADWAY
DENVER, CO 80209

In re Application of
Putter, et al.
Application No. 09/616,746
Filed: 14 July, 2000
Attorney Docket No.: 000-009A

ON PETITION

This Decision follows the response to the Notice of Missing Parts, treated under 37 C.F.R. §1.47,[1] specifically §1.47(a), and supplemented on 28 December, 2000, with a petition to correct inventorship under 37 C.F.R. §1.48(a).[2]

The petitions are **GRANTED**.[3]

With regard to the petition under 37 C.F.R. §1.48(a), Petitioner has demonstrated that the erroneous inclusion of James Nelson (Mr. Nelson) occurred without deceptive intent, with a declaration as available from Mr. Nelson and petition from registered Counsel Jeffrey Thurnau (Mr. Thurnau, Reg. No. 42,183).

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a)If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(i) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

(b)Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(i), and the last known address of all of the inventors. The Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to all of the inventors at the addresses stated in the application and publish notice of the filing of the application in the Official Gazette. An inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] The regulations at 37 C.F.R. §1.48 provide in pertinent part:

§1.48 Correction of inventorship in a patent application, other than a reissue application.

(a) If the inventive entity is set forth in error in an executed §1.63 oath or declaration in an application, other than a reissue application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the application may be amended to name only the actual inventor or inventors. When the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under §1.634. Such amendment must be accompanied by:

(1) A petition including a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(2) An oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§1.42, 1.43 or 1.47;

(3) The fee set forth in §1.17(i); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b)).

* * *

[62 Fed. Reg. 53185, Oct. 10, 1997]

[3] Consistent with Petitioner's authorization, the $130.00 fee for the petition under 37 C.F.R. §1.47(a) and the $130.00 surcharge for late filing of Missing Parts (oath/declaration) are charged to Deposit Account 12-2475. The $130.00 fee for the petition under 37 C.F.R. §1.48(a) previously was charged.

With regard to the petition under 37 C.F.R. §1.47, Petitioner has shown that the non-signing inventor, Nick Sevastian (Mr. Sevastian) is unreachable at his last known address, or has refused or otherwise has failed to join in the filing of the above-identified application, and otherwise the above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).[4]

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), 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.

In addition, this file is being forwarded to OIPE for the issuance of a corrected filing receipt deleting the name of James E. Nelson as co-inventor, consistent with this decision.

Telephone inquiries regarding this communication should be directed to the Petitions Attorney John J. Gillon, Jr., at (703)305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[4] A grantable petition under 37 C.F.R. 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

#8

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JJGJr.:03-01

Paper 7

JEFFREY THURNAU
THE GATES CORPORATION
MAIL STOP 31-4-1-A3
900 S. BROADWAY
DENVER, CO 80209

COPY MAILED

AUG 3 2001

OFFICE OF PETITIONS
A/C PATENTS
ON PETITION

In re Application of
Sevastian, et al.
Application No. 09/616,746
Filed: 14 July, 2000
Attorney Docket No.: 000-009A

This revised Decision updates that of 6 March, 2001, follows the response to the Notice of Missing Parts, treated under 37 C.F.R. §1.47,[1] specifically §1.47(a), and supplemented on 28 December, 2000, with a petition to correct inventorship under 37 C.F.R. §1.48(a),"[2] and corrects the identified inventor and the charge to the Deposit Account as set forth in Fn. 3, below.

The petitions are **GRANTED**.[3]

With regard to the petition under 37 C.F.R. §1.48(a), Petitioner has demonstrated that the erroneous inclusion of James Nelson (Mr. Nelson) occurred without deceptive

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[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a)If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(i) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

(b)Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(i), and the last known address of all of the inventors. The Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to all of the inventors at the addresses stated in the application and publish notice of the filing of the application in the Official Gazette. An inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] The regulations at 37 C.F.R. §1.48 provide in pertinent part:

§1.48 Correction of inventorship in a patent application, other than a reissue application.

(a) If the inventive entity is set forth in error in an executed §1.63 oath or declaration in an application, other than a reissue application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the application may be amended to name only the actual inventor or inventors. When the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under §1.634. Such amendment must be accompanied by:

(1) A petition including a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(2) An oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§1.42, 1.43 or 1.47;

(3) The fee set forth in §1.17(i); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b)).

* * *

[62 Fed. Reg. 53185, Oct. 10, 1997]

[3] Consistent with Petitioner's authorization, the $130.00 fee for the petition under 37 C.F.R. §1.47(a) and the $130.00 surcharge for late filing of Missing Parts (oath/declaration) are charged to Deposit Account 07-0475. The $130.00 fee for the petition under 37 C.F.R. §1.48(a) previously was charged.

intent, with a declaration as available from Mr. Nelson and petition from registered Counsel Jeffrey Thurnau (Mr. Thurnau, Reg. No. 42,183).

With regard to the petition under 37 C.F.R. §1.47, Petitioner has shown that the non-signing inventor, Nick Sevastian (Mr. Sevastian) is unreachable at his last known address, or has refused or otherwise has failed to join in the filing of the above-identified application, and otherwise the above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).[4]

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), 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.

In addition, this file is being forwarded to OIPE for the issuance of a corrected filing receipt deleting the name of James E. Nelson as co-inventor, consistent with this decision.

Telephone inquiries regarding this communication should be directed to the Petitions Attorney John J. Gillon, Jr., at (703)305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[4] A grantable petition under 37 C.F.R. 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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Paper No.

JEFFREY THURNAU
THE GATES CORPORATION
MAIL STOP 31-4-1-A3
900 S BROADWAY
DENVER CO 80209

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Sevastian Nick :
Application No. 09/616,746 :
Filed: July 14, 2000 :
Attorney Docket No. 000-009A :

ON PETITION

This is a decision on the petition, filed December 19, 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 13, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 2839 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of
David F. Englert
Application No. 09/616,787
Filed: July 14, 2000
Attorney Docket No. 10296-050001

ON PETITION

This is a decision on the petition, filed November 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The correspondence filed on November 22, 2004 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ramon K. Tabtiang appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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

This matter is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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 -5 2002

Paper No. 8

In re Application of
Jason B. Elledge
Application No. 09/616,794
Filed: July 14, 2000
Attorney Docket No. 500188.02

: DECISION ON PETITION

The papers filed by facsimile transmission on September 3, 2002 are construed as a petition under 37 CFR 1.181 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office letter dated December 31, 2001. No fee is required for the petition.

The petition is granted.

Petitioner alleges that the holding of abandonment is in error because a timely reply to the Office letter in question was in fact filed. Petitioner supports this allegation by supplying a copy of the reply filed, and a copy of receipt for the filing of the reply which shows that the reply was received in the Office on February 26, 2002. In addition, the reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated February 11, 2002. This evidence establishes that petitioner in fact filed a timely reply to the Office letter in question, and that the application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on February 11, 2002.

PETITION GRANTED.

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

Application No.: 09/616,962

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

OIPE
APR 0 2 2002
PATENT & TRADEMARK OFFICE

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- [X] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY

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JJGJR.: 07-06

Paper No:__

WITHROW
& TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	DECISION
Application No. 09/616,997	:	
Filing Date: 14 July, 2000	:	
Attorney Docket No.: 7000-470	:	

This is a decision on the petition filed on 5 June, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

NOTE:

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

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 31 January, 2006, with reply due under a non-extendable deadline on or before 1 May, 2006;

- the application went abandoned after midnight 1 May, 2006;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 5 June, 2006, Petitioner filed the instant petition and averred, *inter alia*, that Petitioner's office did not receive the Notice (a copy is enclosed), and provided documentary support consistent with the guidance set forth in the Commentary at MPEP §711.03(c).

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

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

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

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.

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

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

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

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

[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.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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.[8]

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

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the 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

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

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

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the act complained of.

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[9] 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]

Petitioner appears to have satisfied the requirements described above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **granted**.

The instant application is released to Technology Center 2600 for further processing, to wit: the re-mailing of the Notice of Allowance/Allowability and Fees Due, in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

27512 7590 01/31/2006
WILLIAM J. TUCKER
8650 SOUTHWESTERN BLVD. #2825
DALLAS, TX 75206

EXAMINER
DUONG, FRANK

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 01/31/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,997	07/14/2000	Matthew D. Brown	7000-470	6403

TITLE OF INVENTION: PROCESSING OF ARBITRARILY FORMATTED CLIENT SIGNALS TO ACHIEVE COMPATIBILITY WITH EXISTING TRANSPORT NETWORKS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	05/01/2006

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

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

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

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

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

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

If the SMALL ENTITY is shown as NO:

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

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

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

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

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

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

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

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

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

27512 7590 01/31/2006

WILLIAM J. TUCKER
8650 SOUTHWESTERN BLVD. #2825
DALLAS, TX 75206

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

Certificate of Mailing or Transmission

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

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,997	07/14/2000	Matthew D. Brown	7000-470	6403

TITLE OF INVENTION: PROCESSING OF ARBITRARILY FORMATTED CLIENT SIGNALS TO ACHIEVE COMPATIBILITY WITH EXISTING TRANSPORT NETWORKS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	05/01/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
DUONG, FRANK	2666	370-466000

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

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

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

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

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

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

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

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

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,997	07/14/2000	Matthew D. Brown	7000-470	6403

27512 7590 01/31/2006

WILLIAM J. TUCKER
8650 SOUTHWESTERN BLVD. #2825
DALLAS, TX 75206

EXAMINER
DUONG, FRANK

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 01/31/2006

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 1047 day(s). 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 Patent Term Adjustment will be 1047 day(s).

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) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	09/616,997	BROWN ET AL.	
	Examiner	Art Unit	
	Frank Duong	2666	

-- 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 *11/25/05*.

2. ☒ The allowed claim(s) is/are *1-38*.

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

   * Certified copies not received: _____.

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

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

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

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

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

Attachment(s)

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

FRANK DUONG
PRIMARY EXAMINER

DETAILED ACTION

1. This Office Action is a response to communication dated 11/25/05. Claims 1-38 are pending in the application.

Allowable Subject Matter

2. Claims 1-38 are allowed.

3. The following is an examiner's statement of reasons for allowance: The prior art of record, considered individually or in combination, fails to fairly show or suggest a claimed method, computer program and apparatus for converting a received client signal into a frame based transport signal, comprising, among other limitation, a novel and unobvious limitation of "creating successive payload sections each accommodating the same number of transport data units, each transport unit being a byte, each transport unit also being set either to one of the received client data units or to a dummy data unit", structurally and functionally interconnected with other limitations in a manner as recited in claims 1-38.

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."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is 571-272-3164. The examiner can normally be reached on 7:00AM-3:30PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 27, 2006

FRANK DUONG
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 09/616,997	Applicant(s)/Patent Under Reexamination BROWN ET AL.	
	Examiner Frank Duong	Art Unit 2666	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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S H DWORETSKY
AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

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SEP 08 2005

OFFICE OF PETITIONS

In re Application of	:
Ho	:
Application No. 09/617,083	: DECISION ON PETITION
Filed: July 14, 2000	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 2000-0397	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 2005, to revive the above-identified application.

The petition is granted.

This application became abandoned for failure to reply to the final Office action of June 29, 2004, which set an extendible shortened statutory period for reply of three months. As no reply was received and no extensions of time were obtained, this application became abandoned September 29, 2004. A Notice of Abandonment was mailed February 9, 2005.

The petition satisfies the conditions for revival under 37 CFR 1.137(b) in that a reply in the form of an RCE, (2) the petition fee, and (3) an acceptable statement of unintentional delay, are all present.

The application is being referred to the Technology Center.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of
OSAMU ARISUMI
Application No. 09/617,138
Filed: 07/14/2000
Attorney Docket No. 04329.2350

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on March 29, 2007, to withdraw the holding of abandonment.

On September 6, 2000, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. In the apparent absence of a timely response, the application became abandoned on November 7, 2000. On March 15, 2007, the Office mailed a Notice of Abandonment.

Applicants asserted that the Notice of Abandonment was mailed in error because they filed a Response to Notice to File Missing Parts, including the payment of the $130.00 surcharge, on November 6, 2000. Applicants included a copy of the Response to Notice to File Missing Parts and a copy of their date-stamped postcard receipt, acknowledging receipt of the reply in the USPTO on November 6, 2000.

The Office has not located the original correspondence. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on November 6, 2000, but was not matched with the application.

The petition is **granted**. The Notice of Abandonment is hereby withdrawn.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries specifically 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

UNITED STATES 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. 6572952
Issue Date: June 3,2003
Application No. 09617206
Filed: July 17,2000
Attorney Docket No. RKPA4

:

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

:

This is a decision on the electronic petition, filed March 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6572952	2003-06-03	09/617,206	2000-07-17	130625-001000

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	/Jason P. Sander/	Date (YYYY-MM-DD)	2008-03-25
Name	Jason P. Sander	Registration Number	54422

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/27/09

TO SPE OF : ART UNIT 2878 Epps Georgia Spe

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/617372 Patent No.: 6555803

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: _____

Georgia Y Epps SPE AU 2878
SPE **Art Unit**

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Paper No. 11

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE, CT 06468

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JUL 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Torsten Leickel et al :
Application No. 09/617,377 :
Filed: July 17, 2000 :
Attorney Docket No. 915.370 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 December 19, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 20, 2003.

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

The application file is being forwarded to Technology Center 2600 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

APR - 5 2002

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

Philip S. Johnson
One Johnson and Johnson Plaza
New Brunswick NJ 08933-7003

Paper No. #9

In re Application of Frederick G. St. Goar et al Serial No. : 09/617,459 Filed : July 17, 2000 For : Antegrade Cardioplegia Catheter Method	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request received February 7, 2002 (certificate of mailing dated December 5, 2001), to review the holding of abandonment mailed August 14, 2001 for failure to respond to the Office action mailed December 6, 2000. The basis for the request is that applicant did not receive the Office action mailed December 6, 2000. There is no fee required for this petition. Petitioner's $130.00 fee will be refunded under separate cover.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed February 7, 2002, includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the appropriate Legal Instruments Examiner to have the Office's communication of December 6, 2000 remailed.

Summary: Holding of Abandonment Withdrawn.

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

ak/3/25/02

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

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Douglas P. Hart et al	:	
Application No. 09/617,556	:	ON PETITION
Filed: July 17, 2000	:	
Attorney Docket No. MIT-04488	:	

This is a decision on the petition filed May 22, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed February 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 13, 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 issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES
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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 - 9 2002

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

#17

In re Application of	:	
Petrus W. Roelvink et al	:	
Serial No.: 09/617,569	:	WITHDRAWAL OF ABANDONMENT
Filed: July 14, 2000	:	
Attorney Docket No.: 204133	:	

This is in response to applicants' petition under 37 CFR 1.181, filed June 18, 2002, requesting revival of the above-identified application based on timely filing of a reply. The delay in responding to this petition is regretted.

A review of the file history shows the examiner mailed a Final Office action to applicants on August 14, 2001, setting a three month shortened statutory period for reply. Applicants replied on October 17, 2001, with an amendment which was denied entry by the examiner as noted in an advisory action mailed November 6, 2001. Upon failure to receive a further reply the application was held abandoned by Notice of Abandonment mailed to applicants on June 4, 2002. Applicants state that RCE papers were filed by facsimile transmission on November 14, 2001, and provide a copy of a transmission receipt to show receipt by the Office. Based on the statements and evidence of record it is concluded that the RCE was timely filed, but never correlated with the file. Applicants copy submitted with the petition will be used in lieu 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 RCE papers will be entered and the application will then be forwarded to the examiner for further 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.

Jasemine C. Chambers
Director, Technology Center 1600

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE CA 91326

In re Application of
Douglas R. Pulley, et al.
Application No. 09/617,587
Filed: July 18, 2000
For: **RECEIVER CIRCUIT**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed August 23, 2005. No fee is required.

This application was held as abandoned for failure to timely respond to the non-final Office action mailed on November 10, 2003. A Notice of Abandonment was mailed June 4, 2004. It is noted that the subject petition was filed more than 2 months following the mailing of the Notice of Abandonment.

Petitioner alleges that the non-final Office action was not received. To support the assertion, the attorney of record submits a statement to that effect.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not fully complied with the requirements set forth above. Petitioner has provided the required statements, but the petition fails to include a copy of the docket records.

However, a review of the application record reveals that a power of attorney and change of address request was submitted to the Office on October 24, 2003, prior to the mailing of the Office action of November 10, 2003. However, it does not appear as though the change of address request was processed given that the non-final Office action and the Notice of Abandonment was mailed to the previous address of record. On November 30, 2004, a further change of address request was received and processed by the Office.

Given the fact that there was a request for correspondence address change prior to the mailing of the non-final Office action and prior to the mailing of the Notice of Abandonment, there was an obvious irregularity in the mailing of the Office communication.

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

The petition is **GRANTED.**

Given the original mailing date of the non-final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. The time period for response will be restarted from the mail date of the new Office action.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of
Sha Ye, et al.
Application No. 09/617,590
Filed: July 18, 2000
Attorney Docket No. PORTNZ00700

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 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David A. Levine on behalf of all attorneys of record who are associated with customer No. 40518.

All attorneys/agents associated with the Customer Number 40518 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 inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that 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 § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The previously filed assignment does not contain a proper chain of title.

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHA YE
1721 VIA LUGANO
SAN JOSE, CA 95014

cc: WILLIAM SHAFFER, ESQ.
TOWNSEND & TOWNSEND & CREW, LLP
279 LYTTON AVENUE
PALO ALTO, CA 94301

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/617,590	07/18/2000	Sha Ye	PORTNZ00700

CONFIRMATION NO. 8637

OC000000021786055

OC000000021786055

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 12/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Paper No. 13

RAMAN RAO
3099 ALEXIS DRIVE
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of Rao et al. Application No. 09/617,608 Filed: July 17, 2000 Title: METHOD AND SYSTEM TO INTERFACE INTERNET PROTOCOL (IP) BASED WIRELESS DEVICES AND WIRELESS NETWORKS WITH OPTICAL AND OTHER NETWORKS FOR IMPROVED FLEXIBILITY, PERFORMANCE AND DATA TRANSFER RATES	DECISION ON PETITION

This is a decision on the petition filed September 30, 2004, under 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed November 6, 2003. This action set a shortened statutory period for reply of three (3) months. No extensions of time were obtained and no reply was filed. Accordingly, the above-identified application became abandoned on February 7, 2004. A Notice of Abandonment was mailed on September 20, 2004.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 C.F.R. §1.137(b). Petitioner submitted the required reply in the form of an amendment on September 10, 2004, paid the petition fee, and made the required statement of unintentional delay.

Receipt of the revocation of power of attorney and change of correspondence address filed September 8, 2004 (and change of correspondence address re-supplied October 29, 2004) is acknowledged and made of record.

The application file is being forwarded to Technology Center 2661 for consideration of the response filed September 10, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/04/06

Paper No.: —

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/617695 Patent No.: 7130778B1

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: COC is Proper

KAMINI SHAH
SUPERVISORY PATENT EXAMINER

SPE

2128
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,130,778

APPLICATION NO.: 09/617,695

ISSUE DATE : October 31, 2006

INVENTOR(S) : John M. Connell, Dennis Mills, Doug Cyr, Norman Buck

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:

Related U.S. Application Data - "Continuation of application No. 07/474,682, filed on Feb. 6, 1990, now Pat. No. 6,101,324" should be --Continuation of application No. 07/474,682, filed Feb. 6, 1990, now Pat. No. 6,101,324, which is a continuation of application No. 07/281,903, filed Dec. 6, 1988, now abandoned, which is a continuation of application No. 06/805,888, filed on Dec. 6, 1985, now abandoned.--

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

Akin Gump Strauss Hauer & Feld
1111 Louisiana St., 44th Floor
Houston, TX 77002-5200

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

C James Bushman
Browning Bushman
5718 Westheimer Suite 1800
Houston TX 77057

COPY MAILED

APR 0 9 2003

OFFICE OF PETITIONS

In re
Jerry McKinney
Reissue Application No. 09/617,749
Filing Date: July 17, 2000
Reissue of Patent No. 5,785,854
Original Issue Date: July 28, 1998
Attorney Docket No. Clearstrm-6

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed September 18, 2002.

The petition is **GRANTED**.

The above-identified reissue application became abandoned for failure to timely file a proper reply to the non-final Office action mailed November 30, 2001. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time under § 1.136(a) permitted. No extension having been obtained and no reply filed, the above-identified reissue application became abandoned on March 1, 2002. A Notice of Abandonment was mailed on June 25, 2002.

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

The application file is being forwarded to Technology Center 1724 for consideration of the responses (an amendment, payment of additional claim fees and a reissue declaration) filed September 18, 2002.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

MONTY L ROSS ESQ
LOCKE LIDDELL & SAPP LLP
2200 ROSS AVENUE
SUITE 2200
DALLAS TX 75201-6776

COPY MAILED

JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Thomas J. Shaw :
Application No. 09/617,868 : ON PETITION
Filed: July 17, 2000 :
Attorney Docket No. 75329/77432 :

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

The petition 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 January 29, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 30, 2003. A Notice of Abandonment was mailed on September 10, 2003.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The Terminal Disclaimer filed with the instant petition is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file.

The Terminal Disclaimer fee of $55 has been refunded to petitioner's Deposit Account number No. 12-1781.

The application file is being forwarded to Group Art Unit 3763 for consideration of the amendment filed May 24, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

#7
2-10-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Joseph V. Colaianni
Patton Boggs, LLP
2550 M Street, N.W.
Washington, D.C. 20037

In re Application of: Richard W. Reece	)	
Application No. 09/617,913	)	**DECISION ON PETITION TO MAKE**
Filed: July 17, 2000	)	**SPECIAL UNDER 37 C.F.R. §1.102**
For: GLOBAL ENCRYPTION SYSTEM	)	

This is a decision on the petition to make special filed January 14, 2003 under 37 C.F.R. §102(d) to grant the above identified application special status.

The petition is **DENIED**.

Petitioner urges the grant of special status because there has been no action since the filing date.

MPEP §708 explains the order of examination of applications. The portion of this section which is of particular relevance to this request states:

> Nonprovisional applications filed in the U.S. Patent and Trademark Office and accepted as complete applications are assigned for examination to the respective examining Technology Centers (TCs) having the classes of inventions to which the applications relate. Nonprovisional applications ***shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed*** except for those applications in which examination has been advanced pursuant to 37 CFR 1.102. See 37 CFR 1.496 and MPEP § 1893.03 for the order of examination of international applications in the national stage, including taking up out of order certain national stage applications which have been indicated as satisfying the criteria of PCT Article 33(1)-(4) as to novelty, inventive step and industrial applicability. ***[Emphasis added]***
>
> ...
>
> Each examiner will give priority to that application in his or her docket, whether amended or new, which has the *oldest effective U.S. filing date.* [Emphasis in original]

Applications filed in late 1999 are currently being examined in this area. This application was filed in July 2000 and therefore does not have priority over those currently being taken up for

examination. 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.

It is suggested that Applicant review M.P.E.P. §708.02 regarding 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.

Pinchus M. Laufer

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

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MAY 22 2008

In re Application of	:	
SHAPIRO et al.	:	
Application No. 09/617,935	:	DECISION ON PETITION
Filed: 08/17/2000	:	
Attorney Docket No. RD26643USA	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed April 15, 2002, and resubmitted on May 1, 2008, requesting withdrawal of the holding of abandonment in the above-identified application. The application file was recently forwarded to the Office of Petitions. The undersigned immediately reviewed the petition upon receipt and issued the following decision.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowance and Issue Fee Due mailed on July 31, 2001, which set a three-month shortened statutory period for reply. Accordingly, a reply was due on or before October 31, 2001. In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on March 26, 2002.

Petitioners assert that they timely submitted the Issue Fee Transmittal form, which included an authorization to charge the Deposit Account for the issue fee payment. To support this assertion, petitioners provided a copy of a return postcard, acknowledging receipt of "Notice of Allowance and Issue Fee Transmittal (in duplicate) charging deposit account 07-0868; Designation of Fee Address w/ Certificate of Mailing" in the U.S. Patent and Trademark Office (USPTO) on October 1, 2001. A copy of the previously submitted reply accompanies the petition.

The Issue Fee Transmittal, which the USPTO acknowledged as received on October 1, 2001, is not of record in the application file and has not been located to date. However, MPEP 503 states "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the Issue Fee Transmittal was timely received in the USPTO but lost after receipt thereof.

Upon inspection of the Issue Fee Transmittal, the Office notes petitioners checked box 4b indicating that the Issue Fee and Advance Order of One Copy should be charged to the Deposit Account. However, petitioners did not include the Deposit Account Number on the Issue Fee Transmittal.

As currently stated in MPEP 1306,

> Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b). In addition, where the deposit account information is added to the Fee(s) Transmittal form (PTOL-85B), but the check box authorizing that the deposit account be charged the issue fee is not checked, the deposit account will still be charged the required issue fee and any required publication fee.

A review of the record reveals that the Deposit Account number and a general authorization were previously provided to the Office in a communication from petitioners on August 16, 2001.

The issue fee of $1,280.00 and the $3.00 advance copy fee due at the time of the submission of the present petition on April 15, 2002, will be charged to the Deposit Account as authorized.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquires regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 21

DATE : 9/22/04

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: 6620163

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Lamont M. Newsome
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

David O. Reip
DAVID O. REIP
PRIMARY EXAMINER

N. Gayle 10/4/04
SPE

3731
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,620,163 B1
DATED : September 16, 2003
INVENTOR(S) : Gary Karlin Michelson, M.D.

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

Column 31,
Lines 28 and 33, change "11" to -- 1 --.

Column 32,
Line 14, before "shaft" (first occurrence) insert -- a --.

Column 33,
Line 5, change "thread" to -- thread, --.

Column 35,
Line 35, change "Plating" to -- A plating --.

Column 37,
Line 12, change "Plating" to -- A plating --.
Line 26, change "Insertion" to -- insertion --.

Column 41,
Line 54, change "186" to -- 195 --.

Column 42,
Line 16, change "202" to -- 186 --.

Column 43,
Line 12, change "215" to -- 218 --; and
Line 35, change "215" to -- 225 --.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,620,163 B1
DATED : September 16, 2003
INVENTOR(S) : Gary Karlin Michelson, M.D.

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

Column 44,
Line 17, change "215" to -- 232 --.

Signed and Sealed this

Twenty-third Day of November, 2004

JON W. DUDAS
Director of the United States Patent and Trademark Office

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 9-24-02

Paper No.: 13

TO : Supervisor, Art Unit 3731

SUBJECT : Certificate of Correction Request in Patent No.: 6428542

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

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

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

THANK YOU FOR YOUR ASSISTANCE!

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

☒ YES ☐ NO ☐ Comments below

☐ Comments:

DAVID O. REIP
PRIMARY EXAMINER

MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
Supervisor

3731
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,066	07/17/2000	Veronique Ferrari	05725.0656-00	8522

22852 7590 08/12/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
1615	

DATE MAILED: 08/12/2005

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

Paper No.

Michelle E. O'Brien
Finnegan, Henderson, Farabow
Garrett & Dunner
1300 I Street N.W.
Washington D.C. 2000

Date: August 8, 2005
Application No. 09/618,066
Filed: April 15, 2003
Subject: COMPOSITIONS STRUCTURED WITH AT LEAST ONE POLYMER AND METHODS OF USING THE SAME

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed October 01, 2004, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **deletion of PASCAL SIMON**. 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.

J. Venkat

JYOTHSNA VENKAT
United States Patent and Trademark Office
Technology Center 1600
PRIMARY EXAMINER, ART UNIT 1615
Remsen 4A89
571-272-0607

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/618,066	FERRARI ET AL.	
	Examiner	Art Unit	
	JYOTHSNA A. VENKAT Ph. D	1615	

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

1. ☒ The amendment filed on *01 October 2004* under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☒ entered in part. See explanation below.

Petition to correct the inventorship has been entered. The co-pending applications that has been crossed-out has been considered but it will not be listed for printing. The IDS that has been submitted on 10/1/04 is duplicate of IDS submitted on 10/18/02.

Petition to correct the inventorship
JYOTHSNA A VENKAT Ph. D
Primary Examiner

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)
7037211	2006-05-02	09618076	2000-07-17	205794

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-06-03
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7037211
Issue Date: May 2,2006
Application No. 09618076
Filed: July 17,2000
Attorney Docket No. 205794

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

This is a decision on the electronic petition, filed June 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 June 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

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

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK, NY 10022

Mail Date: 04/21/2010

Applicant	: Stephen E. Lincoln	: DECISION ON REQUEST FOR
Patent Number	: 7585466	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/618,178	: OF WYETH
Filed	: 07/18/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

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

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OFFICE OF PETITIONS

In re Application of	:	
Reinhold Elfrich	:	DECISION ON PETITION TO
Application No. 09/618,181	:	WITHDRAW HOLDING OF
Filed: 18 July, 2000	:	ABANDONMENT
Attorney Docket No. DE 000062	:	

This is a decision on the petition filed on 24 January, 2006 (certificate of mailing date 10 May, 2002), to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on 22 October, 2001, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 24 April, 2002.

In response, a petition to withdraw the holding of abandonment was filed on 10 May, 2002 (certificate of mailing date). Petitioners have also provided a copy of a postcard bearing an Office-date of 15 May, 2002, itemizing the filing of the present petition and identifying the application by application number and docket number. Accordingly, the showing of record is that the petition to withdraw the holding of abandonment was timely filed on 10 May, 2002, but was not matched with the file due to Office error. The Office apologizes for the error and regrets any inconvenience to petitioner.

Petitioner asserts that the Notice of Allowance mailed on 22 October, 2001, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing

required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, a statement has been submitted by the practitioner, Dicran Halajian, stating that the Notice of Allowance was not received as indicated by a search of the file jacket and docket records. Copies of docket records for the above-identified application where the non-received Office action would have been entered had it been received and docketed are attached.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to Technology Center 2600 technical support staff for remailing of the Notice of Allowance. 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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SEP 2 9 2003
OFFICE OF PETITIONS

In re Application of :
Donald F. Beaumont :
Application No. 09/618,188 :
Filed: July 18, 2000 :
Attorney Docket No. :
PHF 99-563

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 24, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 9, 2002. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 10, 2003. A Notice of Abandonment was mailed on May 27, 2003.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the October 9, 2002 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2133 for processing of the Amendment, filed June 24, 2003, in due course.

It is noted that the address on the petition is different from the address of record. If petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Philips Electronics North America Corp.
1000 West Maude Avenue
Sunnyvale, CA 94085-2810

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Russell Gross
c/o US Philips Corporation
Intellectual Property Department
580 White Plains Road
Tarrytown, NY 10591

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OFFICE OF PETITIONS

In re Application of
John Richardson BELL
Application No. 09/618,190
Filed: July 18, 2000
Attorney Docket No. US000169

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 27, 2006 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 and Fee(s) Due, mailed on December 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned, by operation of law, on March 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of payment of the Issue Fee of $1400; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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

Application No. 09/618,190

in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, CA, 95131

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WASHINGTON, D.C. 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 3

Finnegan, Henderson, Farabow,
Garrett & Dunner L.L.P.
1300 I Street N.W.
Washington, D.C. 20005-3315

In re Application of: G. Victor Guyan et al.	)	
Application No. 09/618,286	)	
Filed: July 18, 2000	)	**DECISION ON REQUEST FOR**
For: METHOD FOR EVALUATING	)	**WITHDRAWAL AS ATTORNEY**
ACTIVITY-BASED COSTS OF A	)	
COMPANY	)	

This is a decision on the Request To Withdraw from Representation filed December 28, 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: Joel Benson
Brinks Hofer Gilson & Lione
455 N. CityFront Plaza Drive
Chicago, Illinois 60611-5599

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

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OFFICE OF PETITIONS

In re Application of :
James Digby Yarlet Collier, et al. :
Application No. 09/618,296 :
Filed: July 18, 2000 :
Attorney Docket No. 1417-180A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 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 July 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 application became abandoned on October 3, 2003.

Receipt is acknowledged of the Amendment filed May 31, 2005, with the instant petition.

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

The application matter is being forwarded to Technology Center 2600, Art Unit 2681 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

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ALEXANDRIA, VA 22313-1450
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PAPER NO. 23

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 :
George Weiner, et al. :
Application No. 09/618,380 :
Filed: July 18, 2000 :
Attorney Docket No. 11823-004920US :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 10, 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 April 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Albert P. Halluin appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Halluin desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Halluin, the petitioner herein. However, until otherwise instructed, all future

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

correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114.

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

cc:

ALBERT P. HALLUIN
HOWREY SIMON ARNOLD & WHITE, LLP
BOX NO. 34
301 RAVENSWOOD AVENUE
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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PAPER NO.

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
George Weiner, et al.
Application No. 09/618,380
Filed: July 18, 2000
Attorney Docket No. 11823-004920US

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 10, 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 April 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Albert P. Halluin appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Halluin desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Halluin, the petitioner herein. However, until otherwise instructed, all future

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

DOCKETED KTM 09/26/03

correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114.

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

cc:

ALBERT P. HALLUIN
HOWREY SIMON ARNOLD & WHITE, LLP
BOX NO. 34
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MENLO PARK, CA 94025

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW
ATTN: JOSEPH LIEBESCHUETZ
379 LYTTON AVENUE
PALO ALTO, CA 94301-1431

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of :
George Weiner et al :
Application No. 09/618,380 : ON PETITION
Filed: July 18, 2000 :
Attorney Docket No. 11823-004920US

This is a decision on the petition, filed May 4, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 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]

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 should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1642 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

cc: Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834

---

[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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CREW
ATTN: JOSEPH LIEBESCHUETZ
379 LYTTON AVENUE
PALO ALTO CA 94301-1431

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OFFICE OF PETITIONS

In re Application of	:	
Weiner et al.	:	DECISION ON APPLICATION
Application No. 09/618,380	:	FOR
Filed: July 18, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 11823-004920US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed October 1, 2007. Applicants submit that the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is nine hundred thirty-five (935) days, which applicants maintain is the difference between the total period of PTO examination delay (1,088 days) and the period of applicant delay (153 days).

The application for patent term adjustment is **DISMISSED**.

For the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days, including **84 days** of Office delay and **244 days** of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 3, 2007, 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 0 days. The instant application for patent term

adjustment was timely filed[1] after the mailing of the notice of allowance and no later than the payment of the issue fee.

Applicants maintain that the discrepancy between the PTO's determination and applicants' can be traced to a single item related to the alleged abandonment of the application between July 23, 2004 and April 23, 2007, for which no period of PTO delay was assigned. Applicants submit that the delay between July 23, 2004 and April 23, 2007 was due to the PTO's failure to match the issue fee with the file, and subsequent inexplicable further delay in rescinding the holding of abandonment notwithstanding verification of the issue fee payment by February 22, 2005 and applicants' unanswered status requests. Applicants assert that an additional period of adjustment of 1,004 days should be entered for this delay.

Applicants acknowledge that this application is currently subject to a terminal disclaimer.

Applicants' arguments have been considered, but not found persuasive. The grounds for entry of periods of adjustment for examination delay are set forth in 37 CFR 1.702. Those grounds do not include failure to take action within specified time frames in response to the filing of a petition to withdraw the holding of abandonment.

However, with respect to action taken in response to the payment of the issue fee, the relevant section to consider Office delay is 1.702(a)(4). 37 CFR § 1.702(a)(4) provides that:

> subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

Section 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv) and § 1.702(a)(4). Section 1.703(a)(6) specifies that:

---

[1] PALM records indicate that the issue fee was paid on October 1, 2007.

> the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued.

Nonetheless, as stated in the final rule:

> the date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied. However, if prosecution in an application is reopened after allowance (see MPEP 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP 1308). See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In this instance, after the payment of the issue fee (and the granting of the petition), on May 4, 2007, applicants reopened prosecution with the filing of a request for continued examination. Thus, the filing of the issue fee payment on July 23, 2004 is not controlling. A new Notice of Allowance was mailed on July 3, 2007, and the Issue Fee transmittal was again submitted on October 1, 2007.

It is further noted that, with respect to the initial determination of patent term adjustment, the record further reveals that pursuant to 37 CFR 1.704(c)(10), periods of reduction of 113 (not 83) days and 61 days for the filing of two separate requests for continued examination (RCEs) after the mailing of a notice of allowance.

After the mailing of a Notice of Allowance on March 19, 2003 and payment of the issue fee on April 14, 2003, on September 10, 2003, applicants filed a RCE and amendment (and petition to withdraw from issue). The filing of the RCE and amendment after the mailing of the Notice of Allowance constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 113 days, counting the number of days in the period beginning on September 10, 2003, the date of filing of the RCE and amendment and ending on December 31, 2003, the date of mailing of the Ex Parte Quayle in response.

Likewise, after the mailing of another Notice of Allowance on April 23, 2004 and payment of the issue fee on July 23, 2004, on May 4, 2007, applicants filed a RCE and Information Disclosure Statement (IDS) and amendment and application data sheet and sequence listing (and petition to withdraw from issue). The IDS did not include a § 1.704(d) statement. The filing of the RCE and other papers after the mailing of the Notice of Allowance constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 61 days, counting the number of days in the period beginning on May 4, 2007, the date of filing of the RCE and other papers and ending on July 3, 2007, the date of mailing of the Notice of Allowance in response.

It is noted that the petition to withdraw holding of abandonment filed February 22, 2005 was filed within 2 months of the mailing of the notice of abandonment on January 20, 2005. As such, there was no "failure to engage" (or applicant delay) within the meaning of 37 CFR 1.704(c)(4).

The record is unclear as to whether there should be entered additional periods of reduction for applicant delay associated with omissions in applicants' filing with respect to sequence listings. The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq. If it is of significance, applicants are under a duty of candor to the Office to advise if in fact such replies with omissions were filed. (It is noted that without regard to any failures to engage pursuant to 37 CFR 1.704(c)(7) this application is likely to issue with a revised patent term adjustment of zero (0) days).

It is concluded that the correct patent term adjustment at the time of the mailing of the notice of allowance mailed July 3, 2007 is zero (0) days, including 84 days of Office delay and 244 days of applicant delay.

Applicants' submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and to the extent that the period is not consumed by the filing of a request for continued examination).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PALM INTRANET

Day : Monday
Date: 4/7/2008
Time: 16:20:45

PTA Calculations for Application: 09/618380			
Application Filing Date:	07/18/2000	PTO Delay (PTO):	84
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	153
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-174		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
134	04/07/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		113	
133	04/07/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
124	07/03/2007	MAIL NOTICE OF ALLOWANCE			
123	07/03/2007	MAIL EXAMINER'S AMENDMENT			
122	06/28/2007	ISSUE REVISION COMPLETED			
121	06/28/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
120	06/28/2007	DOCUMENT VERIFICATION			
119	06/28/2007	EXAMINER'S AMENDMENT COMMUNICATION			
118	06/28/2007	NOTICE OF ALLOWABILITY			
117	05/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
116	05/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
115	06/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
114	07/18/2000	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
113	07/18/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
112	05/24/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
111	05/23/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
110	05/18/2007	DATE FORWARDED TO EXAMINER			
109	05/04/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
108	05/18/2007	DATE FORWARDED TO EXAMINER			
107	05/04/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			

106	05/18/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
105	05/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
103	05/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
102	05/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
101	05/14/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
100	05/14/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
99	05/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
98	05/04/2007	PETITION ENTERED			
97	05/09/2007	ISSUE NOTIFICATION MAILED			
96	05/09/2007	WORKFLOW - REQUEST FOR RCE - FINISH			
95	05/29/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
94	05/04/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
93	05/02/2007	RECEIPT INTO PUBS			
92	05/02/2007	DISPATCH TO FDC			
91	02/22/2005	ISSUE FEE PAYMENT VERIFIED			
90	05/01/2007	DISPATCH TO FDC			
89	01/16/2007	MISCELLANEOUS INCOMING LETTER			
88	04/23/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
87	04/23/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
86	02/22/2005	ISSUE FEE PAYMENT VERIFIED			
85	04/23/2007	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
84	02/22/2005	PETITION ENTERED			
83	09/30/2005	MISCELLANEOUS INCOMING LETTER			
82	03/03/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
81	02/22/2005	ISSUE FEE PAYMENT RECEIVED			
80	04/14/2003	REVERSE ISSUE FEE			
79	01/20/2005	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
78	01/20/2005	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			

77	12/22/2004	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
76	06/02/2004	PETITION ENTERED			
75	12/14/2004	CORRESPONDENCE ADDRESS CHANGE			
74	12/15/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
73	12/10/2004	RECEIPT INTO PUBS			
72	07/26/2004	WORKFLOW INCOMING PETITION IFW			
71	08/03/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
70	07/29/2004	RECEIPT INTO PUBS			
69	07/26/2004	WORKFLOW INCOMING PETITION IFW			
68	06/11/2004	RECEIPT INTO PUBS			
67	06/02/2004	SEQUENCE FORWARDED TO PUBS ON TAPE			
66	05/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
65	05/26/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
64	04/23/2004	MAIL NOTICE OF ALLOWANCE			
63	04/22/2004	ISSUE REVISION COMPLETED			
62	04/22/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	04/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
60	04/22/2004	NOTICE OF ALLOWABILITY			
59	02/25/2004	NEW OR ADDITIONAL DRAWING FILED			
58	02/25/2004	MISCELLANEOUS INCOMING LETTER			
57	03/10/2004	DATE FORWARDED TO EXAMINER			
56	02/25/2004	RESPONSE AFTER EX PARTE QUAYLE ACTION			
55	12/31/2003	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
54	12/30/2003	EX PARTE QUAYLE ACTION			
53	11/05/2003	DATE FORWARDED TO EXAMINER			
52	09/10/2003	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	11/05/2003	DATE FORWARDED TO EXAMINER			
50	09/10/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		83	40
49	11/05/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	09/23/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
47	09/22/2003	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			

46	09/10/2003	PETITION ENTERED			
45	09/10/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	06/09/2003	RECEIPT INTO PUBS			
43	06/05/2003	DISPATCH TO PUBLICATIONS			
42	06/04/2003	DISPATCH TO PUBLICATIONS			
41	04/14/2003	ISSUE FEE PAYMENT RECEIVED			
40	03/19/2003	MAIL NOTICE OF ALLOWANCE			
39	03/18/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	03/18/2003	NOTICE OF ALLOWABILITY			
37.7	12/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	12/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/16/2003	DATE FORWARDED TO EXAMINER			
35	12/04/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	01/16/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	01/03/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
32	12/04/2002	WORKFLOW - REQUEST FOR RCE - FINISH			
31	12/04/2002	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	10/21/2002	RECEIPT INTO PUBS			
29	09/16/2002	WORKFLOW - FILE SENT TO CONTRACTOR			
28	09/16/2002	RECEIPT INTO PUBS			
27	09/15/2002	DISPATCH TO PUBLICATIONS			
26	09/04/2002	MAIL NOTICE OF ALLOWANCE			
25	09/04/2002	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
24	09/03/2002	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	09/03/2002	NOTICE OF ALLOWABILITY			
22	07/01/2002	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
21	05/20/2002	TERMINAL DISCLAIMER FILED		0	19
20	06/27/2002	DATE FORWARDED TO EXAMINER			
19	05/20/2002	RESPONSE AFTER NON-FINAL ACTION		70	17
18	05/20/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			

17	12/11/2001	MAIL NON-FINAL REJECTION	84		-1
16	12/10/2001	NON-FINAL REJECTION			
15	11/16/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
14	11/03/2001	DATE FORWARDED TO EXAMINER			
13	10/19/2001	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
12	10/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
11	09/28/2001	MAIL NON-BONAFIDE RESPONSE TO SEQUENCE REQUEST			
10	09/27/2001	NON-BONAFIDE RESPONSE TO SEQUENCE REQUEST			
9	08/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	04/02/2001	PRELIMINARY AMENDMENT			
7	12/19/2000	PRELIMINARY AMENDMENT			
6	01/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	01/02/2001	APPLICATION DISPATCHED FROM OIPE			
4	01/02/2001	APPLICATION IS NOW COMPLETE			
3	10/03/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/04/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/18/2000	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.

Back to OASIS | Home page

09/618,458

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-3-05

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6,830,390

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Magdalene Talley

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

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

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

Comments:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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NOV 22 2004

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

In re Application of	:	
John A. Hagan	:	
Application No. 09/618,500	:	DECISION ON PETITION
Filed: July 18, 2000	:	
Attorney Docket No. RPC.0515-PUS	:	

This is a decision on the petition filed by facsimile transmission on October 27, 2004 and October 28, 2004 by which petitioner invokes supervisory authority under 37 CFR 1.181 to compel the examiner to withdraw the notice of noncompliance with 37 CFR 1.192(c) dated October 4, 2004. No fee is required for the petition.

The petition is granted.

For the reasons set forth in the petitions, the examiner's action is not well founded. Petitioner is entitled to choose the language to describe the rejection, and no confusion results therefrom. Petitioner is entitled to argue each particular ground of rejection separately. And an appeal brief filed before the effective date of the recent rule change (which abrogated 37 CFR 1.192) can comply with either 37 CFR 1.192(c) or 37 CFR 41.37(c). See the Notice entitled "Clarification of the Effective Date Provision in the Rules of Practice before the Board of Patent Appeals and Interferences (Final Rule)", published in the Official Gazette for October 12, 2004.

The application is being returned to the examiner via the Supervisory Patent Examiner of Art Unit 3727 for appropriate action not inconsistent with this Decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Brooks Kushman P.C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075.

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

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JAN 1 8 2007

OFFICE OF PETITIONS

In re	:	
Lavelle, et al.	:	
Application No. 09/618,516	:	DECISION ON APPLICATION
Filed: July 18, 2000	:	FOR PATENT TERM ADJUSTMENT
Docket No. LOCK/170/US	:	

This is a decision on the "APPLICATION FOR PATENT TERM EXTENSION", filed October 10, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred ninety-five (795) days to one thousand, one hundred seventy-three (1173) days, plus the number of days from October 3, 2006 to the issue date.

The application for patent term adjustment under § 1.705(b) is **DISMISSED**. Applicant did not pay the required $200 PTA fee. No authorization to charge a deposit account could be found. As such, the Office will not look into the matter on the merits.

Applicants are reminded that the Office does not assess whether or not any additional PTA is accorded for failure to issue a patent within three years from filing until after the issue date is established.[1]

---

[1] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (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).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL BEST & FRIEDRICH, LLP
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MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re	:
Lavelle, et al.	:
Application No. 09/618,516	: DECISION ON APPLICATION
Filed: July 18, 2000	: FOR PATENT TERM ADJUSTMENT
Docket No. LOCK/170/US	:

This is a decision on the letter filed January 29, 2007, resubmitting the earlier "APPLICATION FOR PATENT TERM EXTENSION", originally filed October 10, 2006.

The application for patent term adjustment under § 1.705(d) is **DISMISSED**.

With the application for patent term adjustment filed October 10, 2006, Applicants requested that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred ninety-five (795) days to one thousand, one hundred seventy-three (1173) days, plus the number of days from October 3, 2006 to the issue date. However, the application for patent term adjustment was dismissed in a decision mailed on January 18, 2007. Applicants were notified that not only did the application for patent term adjustment lack the required $200 filing fee, but also that the Office does not assess whether or not any additional PTA is accorded for failure to issue a patent within three years from filing until after the issue date is established.[1]

---

[1] If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the

The above application issued into Patent No. 7,181,507 on February 20, 2007, with a patent term adjustment of one thousand, three hundred nine (1309) days. The Office determined a patent term adjustment of one thousand, three hundred nine (1309) days based on an adjustment for PTO delay of seven hundred ninety-nine (799) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), ten days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. 1.703(a)(6), and five hundred four (504) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. 1.703(b), reduced by four (4) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

The application was filed on July 18, 2000. The number of days from the three year date (July 18, 2003) to the issuance date (February 20, 2007) is one thousand, three hundred thirteen (1313) days, which is the number of days of PTO delay already accorded (799 days under §1.703(a)(1), 10 days under 1.703(a)(6) and 504 days under 1.703(b)). Accordingly, patentees will not be awarded any additional patent term adjustment due to the Office's failure to issue the patent within three years. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 C.F.R. § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

CAROLINE NASH
NASH & TITUS LLC
3415 BROOKEVILLE ROAD
SUITE 1000
BROOKEVILLE MD 20833

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APR 1 8 2002

OFFICE OF PETITIONS

In re Application of
Setterstrom, et al.
Application No. 09/618,577
Filed: July 18, 2000
Attorney Docket No. Army 145

DECISION ON PETITION
AND ACCORDING RULE
47 STATUS

This is a decision on the petition filed January 24, 2002 (Certificate of Mailing dated December 18, 2001), pursuant to 37 CFR 1.137(b), 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 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 29, 2000. This Notice set a period for reply of two (2) months from the mail date of the Notice to submit an executed oath or declaration for inventors Tice, Roberts, and Friden. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 30, 2000. The instant petition precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner has submitted a declaration, paid the $130 surcharge for its late filing, and met all other requirements for a grantable petition under 37 CFR 1.137(b). The declaration was executed by inventors Roberts and Friden. A declaration was not submitted for Tice. However, in an earlier petition under 37 CFR 1.47(a) filed in parent application no. 08/789,734, petitioner was successful in showing that Tice refused to join the parent application.[1]

Accordingly, the petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified divisional application is hereby accorded Rule 1.47(a) status. However, notice of the Rule 1.47(a) status will not be repeated to nonsigning inventor Tice, nor will an announcement be published in the Official Gazette.[2]

The petition fee of $1,280, the $130 surcharge for late filing of the declaration, and the $130 fee for the petition under 37 CFR 1.47(a) have been charged to Deposit Account No. 21-0380, as authorized.

---

[1] The petition was granted in a decision mailed on October 26, 2000. A copy of the decision was submitted with the instant petition.

[2] See MPEP 201.06(c) at 200-38.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Gary W. Sinde	: DECISION ON REQUEST FOR
Patent Number	: 7620611	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/618,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2914** 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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In re Patent No. 6480839
Issue Date: November 12,2002
Application No. 09618621
Filed: July 18,2000
Attorney Docket No. 13177.2US01

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

This is a decision on the electronic petition, filed July 9,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 9,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6480839	2002-11-12	09618621	2000-07-18	13177.2US01

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	/Terry B. Christensen/	Date (YYYY-MM-DD)	2007-07-09
Name	Terry B. Christensen		
Enter Reel and Frame Number		Remove	
Reel Number	016630	Frame Number	0280
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
OIW 01-02

Paper No. 7

SCHLUMBERGER TECHNOLOGY
CORPORATION
ATTN: IP COUNSEL
200 GILLINGHAM LANE
SUGAR LAND, TX 77478

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FEB 13 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Askew
Application No. 09/618,681
Filed: July 19, 2000
Attorney Docket No. 19.0266

This is a decision on the petition under 37 CFR 1.137(b), filed on December 31, 2001, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned on November 14, 2001 for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due, mailed on August 13, 2001 ("8/13/01 Notice"), which set a non-extendable 3-month period for reply.[1] No response was filed. This petition precedes the mailing of a notice of abandonment.

The instant petition contains an authorization to charge Deposit Account No. 10-0610 for the $1,240 issue fee specified in the 8/13/01 Notice, and the $1,280 petition fee. The issue fee was increased to $1,280 effective October 1, 2001. The deficiency of $40[2] and the $30 for 10 copies of the issued patent have been charged to the same deposit account as authorized in the instant petition and the Issue Fee Transmittal.

The Office also acknowledges receipt with the petition of a Power of Attorney and a request to change correspondence address. The Power of Attorney and the new correspondence address have been entered and made of record.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

1 37 CFR 1.311(a) & 1.316.

2 See 37 CFR 1.317 (If the issue fee paid is the amount specified in the notice of allowance, but a higher amount is required at the time the issue fee is paid, any remaining balance of the issue fee is to be paid . . .).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/06

TO SPE OF : ART UNIT 3623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/618809 Patent No.: 6950801

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

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

2-28-08

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

Comments: _____

SPE

3623

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

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

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JAN 18 2007

OFFICE OF PETITIONS

In re	:	
Application No. 09/618,813	:	
Barnard Stewart Silver	:	LETTER REGARDING
Filed: July 18, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 4921/100	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed December 11, 2006. Patentees assert that because a terminal disclaimer was filed in this application no Patent Term Adjustment should be awarded.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office

undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,701,143	2004-03-02	09/618,862	2000-07-18	24004.1.2

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	/DavidWGomes/	Date (YYYY-MM-DD)	2008-04-28
Name	David W. Gomes	Registration Number	27640

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. 6701143
Issue Date: March 2,2004
Application No. 09618862
Filed: July 18,2000
Attorney Docket No. VERTOO-2

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

This is a decision on the electronic petition, filed April 28,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 28,2008 . 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

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 25

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

COPY MAILED

DEC 18 2002

OFFICE OF PETITIONS

In re Application of	:	
Anatoly Z. Rosenflanz	:	
Application No. 09/618,876	:	ON PETITION
Filed: July 19, 2000	:	
Attorney Docket No. 55763USA3A	:	

This is a decision on the petition, filed by facsimile transmission on December 18, 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 November 25, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1755 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: MAY 15 2003

Paper Number 28
UR

In re application of Anatoly Z. Rosenflanz Serial No. 09/618,876 Filed: July 19, 2000 For: FUSED AL2O3-Y2O3-ZRO2 EUTECTIC ABRASIVE PARTICLES, ABRASIVE ARTICLES, AND METHOD OF MAKING AND USING THE SAME	:	DECISION ON PETITION

This is a decision on the PETITION TO EXPUNGE UNDER 37 CFR 1.182, filed November 19, 2002 which has been accepted as a timely petition under 37 CFR 1.59(b) and MPEP 724.05, II, and is before the Group Director of Technology Center 1700 for consideration.

DECISION

A review of the petitioner's request and the application record indicates that the request to expunge from the file record the materials entitled:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT ON OCTOBER 23, 2001 in accordance with MPEP 724

should be granted. Each of the criteria for granting the request has been satisfied, see MPEP 724.05. The subject information, however, must be retained for a period of a patent that may issue from the present application.

The petition is GRANTED.

Enclosures:
(1) Supplemental IDS submitted on October 23, 2001 noted proprietary.

09/618,876

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

3M Innovative Properties Company
P.O. BOX 33427
St Paul, MN 55133-3427

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: MAR 2 4 2004

rvk
Paper No. 33

In re application of:
Anatoly Z. Rosenflanz
Serial No.: 09/618,876
Filed: July 19, 2000
For: FUSED Al_2O_3-Y_2O_3-ZrO_2 EUTECTIC ABRASIVE PARTICLES, ABRASIVE ARTICLES, AND METHODS OF MAKING AND USING THE SAME:

DECISION ON PETITION

This is a response to the PETITION UNDER 37 CFR 1.181(A) TO WITHDRAW THE HOLDING OF ABANDONMENT, filed September 04, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 04, 2003, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed March 21, 2003 be withdrawn. The petitioner asserts that applicant timely filed a Request for Continued Examination (RCE) on June 20, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did indeed file the proper response to the Office letter (i.e. Notice of Allowability and Notice of Allowance and Issue Fee Due) of March 21, 2003 in a timely manner. The submitted evidence are : (1) a copy of the RCE filed via facsimile on June 20, 2003, with an executed Certificate of Facsimile dated June 20, 2003; (2) a copy of the Confirmation of Facsimile for the RCE; and (3) an Affidavit by Lisa A.Hengen stating that she signed the Certificate of Facsimile for the RCE, and submitted the RCE via facsimile on June 20, 2003.

Therefore, the Notice of Abandonment is hereby withdrawn, and the case is returned to pending status. The case will be forwarded to the Technical Support Staff for processing the RCE and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

#42

UNITED STATES PATENT AND TRADEMARK OFFICE

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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:
Anatoly Z. Rosenflanz	:
Application No. 09/618,876	: DECISION GRANTING PETITION
Filed: July 19, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 55763USA3A	:

This is a decision on the petition, filed August 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE 09 Jan 2009

TO SPE OF : 1639

SUBJECT : Request for Certificate of Correction on Patent No.: 6710029

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

Valerie Jackson
Certificates of Correction Branch

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

Note your decision on the appropriated box.

☐ **Approved** — All changes apply.

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

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

Comments:

The request for correction is entered in part as follows:

- Correction of priority claim (COCIN) page 2-3) is entered.
- Correction of typographical error (COCIN, page 3) is entered
- Correction to chemcial formula is not entered (COCIN, page 3+) because it represents new matter as well as alters the scope of the patented claims.

The COCIN document has been annotated in IFW,

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1639

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of Shunpei Yamazaki Application No. 09/619,477 Filed: July 19, 2000 Attorney Docket No. 0756-2178	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance and Fee(s) Due.[1]

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

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Oct11\619477.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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)
6590323	2003-07-08	09619533	2000-07-19	3112-043

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 H. Troxell/	Date (YYYY-MM-DD)	2008-02-19
Name	Bruce H. Troxell	Registration Number	26592

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. 6590323
Issue Date: July 8,2003
Application No. 09619533
Filed: July 19,2000
Attorney Docket No. BHT/3112/43

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

This is a decision on the electronic petition, filed February 19,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 6, 2006

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/619615 Patent No.: 6,956,971

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: 1) Column & Line numbers should be used to designate changes, NOT Claim/Line numbers, 2) The "from" conditions in the correction document do not match with the actual claims.

SPE

2624

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

BRIAN WERNER

SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : June 4, 2008
Serial No. :09/619615
Patent No. :6,956,971 B1
Patent Issued :October 18, 2005
Title :TERMINAL AND METHOD FOR TRANSPORTING STILL PICTURE

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.

Column and line numbers should be used to designate changes, not claim and line numbers. The "from" conditions in the correction document do not match with the actual claims.

In view of the foregoing, your request is hereby denied.

Further consideration will be given your requests upon receipt of a 1050 form with the appropriate column and line numbers.

Magdalene Talley
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571) 270-9942

Carol Druzbick
P.O. Box 221200
Chantilly, VA 20153-1200

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/17/08

TO SPE OF : ART UNIT 2600/2625

SUBJECT : Request for Certificate of Correction on Patent No.: 6956971 / 09619615

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

PLEASE FORWARD CASE BACK CERTITICATE OF CORRECTION BRANCH, AS SOON AS POSSIBLE!!!

Michelle Williams
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 118

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:

8/1/08

2624

BRIAN WERNER
SUPERVISORY PATENT EXAMINER
SPE

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

APR - 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Miska Hannuksela
Application No. 09/619,660
Filed: July 19, 2000
For: VIDEO CODING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the petition, filed March 9, 2004, to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(a).

The petition is **Dismissed as Moot** for the reason stated below.

A review of the application file reveals that a Notice of Allowance was mailed for the above-identified application on December 11, 2003. Subsequently, a Request for Continued Examination (RCE) was filed concurrently with the instant petition, a preliminary amendment and an Information Disclosure Statement on March 9, 2004. Since applicant timely submitted a Request for Continued Examination (RCE) **prior** to payment of the issue fee, a petition to withdraw from issue under 37 CFR 1.313(a) is unnecessary.

The application will be forwarded to Technology Center 2600 Technical Support Staff for processing the RCE. From there, the application will be forwarded to the examiner for consideration in appropriate turn.

Allen MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Pollock Vande Sande & Amernick RLLP
Suite 800
1990 M Street NW
Washington, DC 20036-3425

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OFFICE OF PETITIONS

In re Application of Heater et al. :
Application No. 09/619,701 : Decision on Petition
Filing Date: July 19, 2000 :
Attorney Docket No. 0135/00315 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

The above-identified application was deemed abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 30, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application was considered abandoned as of March 1, 2006. A Notice of Abandonment was mailed on April 13, 2006.

Petitioner contends the issue fee was timely paid. Petitioner has supplied a copy of an "Auto-Reply Facsimile Transmission" report dated February 28, 2006. Petitioner has supplied a copy of an issue fee transmittal sheet. The issue fee transmittal sheet bears a proper certificate of transmission dated February 28, 2006. The petition complies with the requirements set forth in 37 CFR 1.8(b). In view thereof the issue fee is considered timely filed.

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

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. The petition fee of $1,500 has been credited to petitioner's deposit account.

The issue fee of $1,400 has been charged to petitioner's deposit account.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS, LLP
1725 K STREET, N.W., SUITE 1000
WASHINGTON, D.C. 20006

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OFFICE OF PETITIONS

In re Application of :
Masataka Fukuizumi et al :
Application No. 09/619,768 : ON PETITION
Filed: July 19, 2000 :
Attorney Docket No. 000810

This is a decision on the petition filed, April 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1743 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY CA 94704-0778

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,812,624	:	
Pei, et al.	:	
Issue Date: November 2, 2004	:	DECISION ON
Application No. 09/619,847	:	PATENT TERM ADJUSTMENT
Filed: July 20, 2000	:	
Attorney Docket No. SRI1P026/US-4152-2	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed July 12, 2004. Patentees requests correction of the patent term adjustment.

The application for patent term adjustment is **DISMISSED**.

On May 7, 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 was four hundred forty-nine (449) days. On July 12, 2004, applicantd 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 was three hundred sixteen (316) days. The application issued into Patent No. 6,812,624 with a patent term adjustment on three hundred seventy-eight (378) days.

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[1] PALM records indicate that the issue fee was paid on July 19, 2004.

The patent term adjustment has been reviewed and found to be correct. Moreover, it appears that patentees' PAIR records conflict with those of the Office. For example, the Notice of Allowance was mailed on May 7, 2004, not April 22, 2004, as stated by patentees. In addition, the first Office action on the merits was not mailed until January 3, 2003

The correct determination of PTA at the time is **three hundred seventy-eight (378)** days (481 (470+11) days of PTO delay, reduced by 103 (71+3+29) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

Telephone inquiries specific to this matter 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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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OFFICE OF PETITIONS

In re Patent No. 6,972,789 :
Issue Date: December 6, 2005 :
Application No. 09/619,890 : ON PETITION
Filed: July 20, 2000 :
Patentee(s): Takashi Aizawa :

This is a decision on the petition under 37 CFR 3.81, filed on December 28, 2005, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. This is also a decision on the request for issuance of a corrected patent, which is being treated as a petition under 37 CFR 1.182, to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 3.81 to correct the assignee's name is **GRANTED**.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

In view of the above, and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Since $400 is needed for treatment of the 1.182 petition and $100 is needed for the Certificate of Correction, those fees have been charged to petitioner's deposit account as authorized.

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a Certificate of Correction in Office records.

The patent file is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction to placed in the archives of the USPTO and for reprinting the front page of the original Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the reprinting of the Letters Patent should be directed to Krystal Paige in the Office of Publications at (703) 308-9250, Ext. 139.

Andrea Smith
Petitions Examiner
Office of Petitions

Cc: Krystal Paige, South Tower 8th Floor - Fax No. (571) 270-9937

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LERNER AND GREENBERG, P.A.
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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APR 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,876,710	:	
Issue Date: April 5, 2005	:	ON PETITION
Application No. 09/619,973	:	
Filed: July 20, 2000	:	
Attorney Docket No. GR 98 P 1048	:	

This is a decision on the petition under 37 CFR 1.55(a), filed March 3, 2005, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **granted**.

Receipt is acknowledged of papers submitted under 35 USC 119.

The priority papers are accepted as timely filed. The papers have been placed of record in the file.

Since the foreign priority data did not appear on the Letters Patent, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee therefor of $100.

Any questions concerning this decision on petition should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Ingram et al.	:	
Application No. 09/620,060	:	DECISION ON APPLICATION
Filed: July 21, 2000	:	FOR
Atty Docket No. 49950-59911CON	:	PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR REVIEW OF A PATENT TERM EXTENSION PURSUANT TO 37 C.F.R. §§ 1.181 AND 1.704(c)(8)" filed November 9, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one thousand sixty-five (1065) days or at least eight hundred twenty-three (823) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred eighteen (218) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 9, 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. On November 9, 2006, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants do not dispute the period of

[1] PALM records indicate that the Issue Fee payment was also received on November 9, 2006.

reduction of 292 days for applicant delay. Rather, applicants argue that the period of adjustment for examination delay should be 1357 days or 1115 days. As such, the patent term adjustment would be 1065 (1357 - 292) or 823 (1,115 - 292) days.

Specifically, applicants first assert entitlement to a period of adjustment, pursuant to 37 C.F.R. § 1.702(a)(1)[2], for the Office's failure to respond to a reply under 35 U.S.C. §132 not later than four months after the date on which the reply was filed. Applicants calculate this period as 1357 days, from November 22, 2002 (the date that is four months after their filing of a terminal disclaimer on July 22, 2002) to August 9, 2006.

Alternatively, applicants assert entitlement to a period of adjustment, pursuant to 37 C.F.R. § 1.702(b), for the Office's failure to issue the patent within three years of the actual filing date. Applicants calculate this period as at least 1,115 days, from July 21, 2003 to August 9, 2006, the date of mailing of the Notice of Allowance.

(It is unclear why in this petition applicants reference § 1.704(c)(8) as this is a section pertaining to reducing the patent term adjustment for Applicant delay. Further, no correction of the PTA is required with respect to § 1.704(c)(8)).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

As for applicants' request for at least 1115 days of patent term adjustment on the basis of 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

---

[2] Applicants should have cited 37 C.F.R. § 1.702(a)(2) for this delay.

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.

As to applicants' request for 1357 days of patent term adjustment on the basis of the Office's failure to take action within four months, applicants are correct that correction is required. The Office mailed an Office action under section 132 on August 15, 2002, within four months, of applicants' reply filed June 24, 2002. However, the Notice was not mailed to the correspondence address of record (but to an attorney not of record). The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. Accordingly, a corrected Notice of Allowance was mailed on August 9, 2006.

Thus, the Office's delay should be calculating using the August 9, 2006 date. However, the period of delay is 1,385 days, not 1,357 days. Applicants' response was received on June 24, 2002. Thus, the period of adjustment is 1,385 days, the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, October 25, 2002, and ending on the date of mailing of a Notice of Allowance, August 9, 2006.

However, a review of the record reveals a further basis for reduction of the patent term adjustment, pursuant to 37 CFR 1.704(c)(4). No response to the Notice of Allowance mailed August 15, 2002 was considered timely filed by the Office and the application became abandoned. On December 26, 2002, the Office mailed a Notice of Abandonment. However, the record confirms that the Notice of Abandonment (as was the Notice of Allowance) was mailed to an improper address.

Petitioner is advised that if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, any patent term adjustment will be reduced under the provisions of 37 CFR 1.704(c)(4). If applicant does not receive the notice of abandonment, any patent term adjustment may be reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to

conclude prosecution" (processing or examination) of the application, in which case any period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date that is twelve months from the date of applicant's filing or submission of correspondence with the USPTO for which further action by the USPTO can reasonably be expected and ending on the filing date of a grantable petition to withdraw the holding of abandonment. *Untimely Filing of Petitions under 37 CFR 1.181(a) to Withdraw Holdings of Abandonment*, 1283 OG 147 (June 22, 2004).

In this instance, on July 22, 2002, applicants filed a terminal disclaimer for which applicants state they expected further action (i.e., to receive a Notice of Allowance in due course). The Notice of Abandonment was not mailed to applicants at the proper correspondence address. Accordingly, it is being treated as never received by applicants. Applicants filed multiple status inquiries and changes of correspondence address. However, applicants never filed a petition to withdraw the holding of abandonment. The Office withdrew the abandonment on December 13, 2005. Accordingly, a period of reduction of 875 days for the period beginning on July 23, 2003, the day after the date twelve months from the date of filing of the terminal disclaimer, to December 13, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is two hundred eighteen (218) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Saturday
Date: 1/20/2007

PALM INTRANET

Time: 16:09:51

PTA Calculations for Application: 09/620060			
Application Filing Date:	07/21/2000	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	292
Post-Issue Petitions:	0	Total PTA (days):	218
PTO Delay Adjustment:	510		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	1385		
62	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		875	
61	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		875	
60	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	875		
54	08/09/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
53	08/03/2006	CORRESPONDENCE ADDRESS CHANGE			
52	05/23/2006	RECEIPT INTO PUBS			
51	05/03/2006	WORKFLOW - FILE SENT TO CONTRACTOR			
50	04/25/2006	EXPORT TO INITIAL DATA CAPTURE			
49	12/13/2005	CORRECTED NOTICE OF ALLOWANCE			
48	12/13/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
47	12/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
46	11/01/2005	CORRESPONDENCE ADDRESS CHANGE			
45	08/01/2005	MISCELLANEOUS INCOMING LETTER			
44	11/09/2004	MISCELLANEOUS INCOMING LETTER			
43	08/18/2004	CORRESPONDENCE ADDRESS CHANGE			
42	12/26/2002	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
41	12/26/2002	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
40	07/21/2000	WORKFLOW - DRAWINGS FINISHED			
39	07/21/2000	WORKFLOW - DRAWINGS MATCHED WITH FILE AT CONTRACTOR			
38	10/14/2002	RECEIPT INTO PUBS			
37	08/16/2002	WORKFLOW - FILE SENT TO CONTRACTOR			

36	08/16/2002	WORKFLOW - FILE SENT TO CONTRACTOR			
35	08/16/2002	RECEIPT INTO PUBS			
34	08/15/2002	DISPATCH TO PUBLICATIONS			
33	08/15/2002	MAIL NOTICE OF ALLOWANCE			
32	08/15/2002	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
31	08/14/2002	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	08/12/2002	NOTICE OF ALLOWABILITY			
29	07/22/2002	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
28	07/22/2002	TERMINAL DISCLAIMER FILED		28	25
27	07/11/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
26	07/11/2002	DATE FORWARDED TO EXAMINER			
25	06/24/2002	RESPONSE AFTER NON-FINAL ACTION		10	19
24	07/11/2002	CORRESPONDENCE ADDRESS CHANGE			
23	07/11/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	04/27/2001	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		121	4
21	03/19/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
20	03/01/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		17	15
19	03/14/2002	MAIL NON-FINAL REJECTION			
18	03/13/2002	X-POST-LEGAL COMPLETE REJECTION			
17	03/13/2002	NON-FINAL REJECTION			
16	02/28/2002	DATE FORWARDED TO EXAMINER			
15	02/12/2002	RESPONSE TO ELECTION / RESTRICTION FILED		116	11
14	02/12/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	02/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	07/19/2001	CASE DOCKETED TO EXAMINER IN GAU			
11	07/19/2001	MAIL RESTRICTION REQUIREMENT			
10	07/19/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
9	07/16/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	05/18/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	05/15/2001	APPLICATION DISPATCHED FROM OIPE			
6	05/11/2001	APPLICATION IS NOW COMPLETE			
5	05/11/2001	CORRESPONDENCE ADDRESS CHANGE			

4	09/27/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	09/20/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/09/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/21/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JJGJr:12-01

Paper 3

BAKER BOTTS, L.L.P.
2001 ROSS AVENUE
DALLAS, TEXAS 75201-2980

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JAN 08 2002

OFFICE OF PETITIONS

In re application of
Hipp, et al.
Application No. 09/620,108
Filed: 20 July, 2000
Attorney Docket No.: 067856.0110

ON PETITION

This is a decision on the petition filed (with the applicable fee) on 27 September, 2000, under the provisions of 37 C.F.R. §1.53 (e)[1] to accord a filing date of 20 July, 2000, to pages 35 and 37 of the specification.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

The record indicates that:

- the instant application was filed on 20 July, 2000, and pages 35 and 37 of the specification were not included with other items of the application;
- a Notice of Omitted Items was mailed on 11 September, 2000, stating that pages 35 and 37 of the specification were not filed contemporaneously with the application;
- the Notice also set forth therein the non-extendable two- (2-) month deadline within which Applicant might petition for incorporation of the omitted items into the application with the concurrent effect of accepting that petition date as the new filing date of the application;
- the instant petition was filed in response via Express Mail on 27 September, 2000, including therewith pages 35 and 37 of the specification.

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[1] The regulation at 37 C.F.R. §1.53(e) provide

§ 1.53 Application number, filing date, and completion of application.

* * *

(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.

(3) If an applicant is notified of a filing error pursuant to paragraph (e)(1) of this section, but fails to correct the filing error within the given time period or otherwise timely (§ 1.181(f)) take action pursuant to this paragraph, proceedings in the application will be considered terminated. Where proceedings in an application are terminated pursuant to this paragraph, the application may be disposed of, and any filing fees, less the handling fee set forth in § 1.21(m), will be refunded.

* * *

Petitioner submits with the petition, *inter alia*:

- Exhibit B, described as a true copy of pages 35 and 37 of the specification for the instant application;
- Exhibit C, described as a true copy of the stamped postcard receipt (dated 20 July, 2000) for the instant application;
- Exhibit D, described as a true copy of the Express Mail receipt (dated 20 July, 2000) for the instant application;
- Exhibit E, described as a true copy of the Certificate of Express Mail for the instant application;
- Exhibit F, described as a true copy of the transmittal letter for the instant application;
- Exhibit G, described as a true copy of the materials filed in the instant application.

Notably:

- although the application transmittal letter submitted on 20 July, 2000, indicates that "69 total pages" of specification, claims and abstract accompanied the application,
- the copy of the postcard receipt card stamped as received by the Office on 20 July, 2000, and submitted by Petitioner with the petition does not list any statement of the number of pages of specification, claims and abstract submitted with the application.

Therefore, contrary to the assertion at page 3 of the petition, the stamped receipt card does not confirm that the Office acknowledged receipt of pages 35 and 37 of the application. Rather, the stamped receipt card confirms that the Office acknowledged receipt of an application containing an unstated number pages.

A return postcard receipt serves as *prima facie* evidence that the identified papers were or were not received by the Office. MPEP §503.[2]

While the Office does not doubt that the specification and claim(s) were prepared for submittal on or about 20 July, 2000, the mere fact that they were prepared and ready for mailing at Counsel's office does not necessarily mean that they were included with the application papers filed with the Office on 20 July, 2000.[3]

MPEP § 503 provides in pertinent part as follows:

> [T]he postcard receipt will not serve as *prima facie* evidence of receipt of papers which are not adequately itemized. Instead, 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 receipt. 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.

MPEP § 513 provides in pertinent part as follows:

* * *

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 C.F.R. §1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 C.F.R. §1.10(e) to establish what document(s) and or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or

Accordingly, the Office cannot grant a 20 July, 2000, filing date for pages 35 and 37 of the specification of the instant application and the petition is **dismissed**.

To avoid delays in the examination of the application, an amendment renumbering the pages in consecutive order and canceling the incomplete sentences on pages 35 and 36 should be filed prior to the first Office action.

The application is being returned to Technology Center 2830 with the presently accorded fling date of 20 July, 2000, for examination in due course.

Telephone inquiries concerning this matter should be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703) 305-9199.

Beverly M. Flanagan jr

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP §503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

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OFFICE OF PETITIONS
A/C PATENTS

JOHN W. L. OGILVIE
COMPUTER LAW
1211 EAST YALE AVE
SALT LAKE CITY, UT 84105

In re Application of
Amin, et al.
Application No. 09/620,176
Filed: July 20, 2000
Attorney Docket No.: 1909.2.73A

ON PETITION

This is a decision on the petition filed October 3, 2000 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed September 11, 2000.

The application was deposited July 20, 2000. On September 11, 2000, the Office of Initial Patent Examination mailed a Notice stating that the application had not been accorded a filing date because it was deposited without drawings.

In response, on October 3, 2000, the present petition was filed. Petitioner argues that the application was deposited with eight drawings sheets. The instant petition is accompanied by a duplicate set of drawings, a stamped return receipt postcard acknowledging Office receipt of "8 drawing sheets," and a copy of an Express Mail receipt indicating the date of deposit of the application papers as July 20, 2000.

Upon review of the record, eight sheets of drawings have been located in the application file. Therefore, the application was complete on filing.

In view of the above, the petition is **GRANTED**.

The Notice mailed September 11, 2000, was sent in error and is hereby **VACATED**.

The petition fee of $130.00 submitted with the instant petition is unnecessary. As per the authorization contained therein, a refund to deposit account no. 03-2640 has been requested from the Office of Finance, Refund Section.

The change of address submitted February 7, 2001 has been entered into the record.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of July 20, 2000.

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

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

In view of all this, Applicants, Assignee and the undersigned now respectfully petition the Office to acknowledge that the Notice was sent in error by the Office; that the Application is entitled to the filing date of July 20, 2000; that no further drawings are needed; and that a newly executed oath or declaration is not needed.

The Petition fee of $130 may be charged to Deposit Account 03-2640 if necessary. However, if it is charged then a refund to the same Deposit Account is also respectfully requested because the Notice was sent by the Office in error.

Please address any further questions to the undersigned.

Dated this 29th day of September, 2000.

CERTIFICATE OF MAILING

I certify that the following correspondence is being deposited with the United States Postal Service as Priority Mail, postage paid, on September 29, 2000 in a postage-paid envelope addressed to Assistant Commissioner for Patents, Office of Petitions, Customer Service Center, Washington, D.C. 20231:

reply copy of Notice of Incomplete Nonprovisional Application
copy of 8 drawing sheets
copy of transmittal letter with Certificate of Mailing
copy of Express Mail receipt
copy of mailroom-stamped postcard
Petition

\p-MissParts

Respectfully submitted,

JOHN W.L. OGILVIE
Registration No. 37,987
Attorney for Assignee and Applicants

COMPUTER LAW++
8 East Broadway, Suite 725
Salt Lake City, Utah 84111
voice: (801) 355-0828
fax: (801) 355-0989

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OFFICE OF THE DIRECTOR
TC 3600

IPVENTURE, INC.
5150 El Camino Real
Suite A-22
Los Altos, CA 94022

In re application of John E. Parker et al. Application No. 09/620,199 Filed: July 20,2000 For: METHOD AND SYSTEM FOR SCHEDULING DISTRIBUTION ROUTES AND TIMESLOTS	: : : : :	**DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY**

This is a decision on the request filed on May 24, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as <u>MOOT</u>**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed September 30, 2004. As a result of this Notice, the power of attorney has been granted to IpVenture, Inc at the address noted above.

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

SNM/vdb: 10/14/04

cc:

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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Paper No. 9

Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Barry A. Simkins	:	
Application No. 09/620,253	:	ON PETITION
Filed: July 20, 2000	:	
Attorney Docket No. 018563-003100USAT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed December 2, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 136(a) have been obtained. Accordingly, the application became abandoned on March 3, 2003.

The application file is being forwarded to Technology Center AU 2125 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 5

Robert Samuel Smith
1263 Emory Street
San Jose, Ca 95126

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Robert S. Smith :
Application No. 09/620,287 :
Filed: July 20, 2000 :
Attorney Docket No. RSSU2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 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 September 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 November 15, 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).

As to item (1), There is no indication that an oath or declaration, and the $65 surcharge as

Application No. 09/620,287 Page 2

required by the Notice to File Missing Parts of Application (Notice) mailed September 14, 2000 have been submitted. Accordingly, a proper reply to the Notice must be submitted. A copy of the Notice to File Missing Parts will be mailed with this decision.

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:

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03

By Fax: (703) 746-3258
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
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for Patent Examination Policy

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JAN 20 2004
PATENT & TRADEMARK OFFICE

Paper No. 5

Robert Samuel Smith
1263 Emory Street
San Jose, Ca 95126

In re Application of	:	
Robert S. Smith	:	
Application No. 09/620,287	:	ON PETITION
Filed: July 20, 2000	:	
Attorney Docket No. RSSU2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 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 September 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 November 15, 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).

As to item (1), There is no indication that an oath or declaration, and the $65 surcharge as

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JAN 20 2004
PATENT & TRADEMARK OFFICE

Application No. 09/620,287 Page 2

required by the Notice to File Missing Parts of Application (Notice) mailed September 14, 2000 have been submitted. Accordingly, a proper reply to the Notice must be submitted. A copy of the Notice to File Missing Parts will be mailed with this decision.

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:

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03

By Fax: (703) 746-3258
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Robert S. Smith
1263 Emory Street
San Jose, CA 95126

COPY MAILED
JAN 3 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Robert S. Smith	:	
Application No. 09/620,287	:	ON PETITION
Filed: July 20, 2000	:	
Attorney Docket No. RSSU2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 20, 2004.

The petition is granted.

The application file is being forwarded to Technology Center AU 2121 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
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert Samuel Smith
1263 Emory Street
San Jose CA 95126

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Robert Samuel Smith :
Application No. 09/620,287 :
Filed: July 20, 2000 :
Attorney Docket No. RSSU2 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 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)." No additional fee is necessary for filing a renewed petition.

This application became abandoned on February 25, 2005, for failure to pay the issue fee and submit timely corrected drawings as required by the Notice of Allowance and Notice of Allowability, respectively, mailed on November 24, 2004. A Notice of Abandonment was mailed on April 18, 2005.

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an

application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

On November 24, 2004, the Office mailed a Notice of Allowability, requiring corrected drawings, including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948), as well as changes required by the Examiner's Amendment (attached to the Notice of Allowability). Upon reviewing the documents submitted with the present petition, it appears that petitioner did not file any corrected drawings or submit any changes as required by the Examiner's Amendment (attached to the Notice of Allowability). Pursuant to the provision of 37 CFR 1.137(b)(1) and in accordance with 35 USC §§ 133 and 151, the aforementioned items are a necessary component of the required reply and must be submitted with any petition to revive. **Accordingly, this application cannot be revived until petitioner submits corrected drawings and any changes required by the Examiner's Amendment.**

The Office acknowledges the payment of the issue fee with the present petition, as required by the Notice of Allowance and Fee(s) Due.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert Samuel Smith
1263 Emory Street
San Jose CA 95126

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JAN 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Samuel Smith	:	
Application No. 09/620,287	:	DECISION ON PETITION
Filed: July 20, 2000	:	
Attorney Docket No. RSSU2	:	

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

This application became abandoned on February 25, 2005, for failure to pay the issue fee and submit timely corrected drawings as required by the Notice of Allowance and Notice of Allowability, respectively, mailed on November 24, 2004. A Notice of Abandonment was mailed on April 18, 2005.

Petitioner has met the requirements of 37 CFR 1.137(b). Accordingly, the petition is granted.

This matter is being referred to the Office of Publications.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

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

MAIL

MAY 11 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Drori

Application No. 09/620,308
Filed: July 20, 2000
For: SERIAL INTERFACE FOR A BATTERY MANAGEMENT SYSTEM

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 15, 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 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: XICOR, INC.
933 MURPHY RANCH ROAD
BUILDING 4
MILPITAS, CA 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of
William Reid
Application No.09/620,350
Filed: July 20, 2000
Attorney Docket Number: AUS990912US1

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed July 20, 2000.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 20, 2000, without an executed oath or declaration, and naming William Reid as the sole inventor.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage.

A review of the record shows that a petition has not been filed. 37 CFR 1.47 (b) requires a petition. The declaration of Martha A. Acosta cannot be construed as a petition because it was not properly executed. Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Ms. Acosta has not been identified as a proper party to execute a petition.

Pursuant to 37 CFR 1.47(b), the oath or declaration in such an application must be accompanied by a **petition** including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(g), and the last known address of all of the inventors.

The merits of the "petition" have **not** been reviewed because the petition has not been filed and properly executed.

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, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of
Reid Williams
Application No.09/620,350
Filed: July 20, 2000
Attorney Docket Number: AUS990912US1
Title: System Apparatus and Method for Updating Security Configurations of a Plurality of Servers from Centralized Directory Server

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed October 16, 2007.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 20, 2000, without an executed oath or declaration, and naming William Reid as the sole inventor.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (2), (5), and (6).

An Acceptable Oath or Declaration

As to item (2), applicant failed to submit a properly executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). 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. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

Although the last known address of the non-signing inventor has been provided in the petition, the declaration fails to include the mailing address as required pursuant to 37 CFR 1.63 (c)(1).

Proof of Proprietary Interest

As to item (5), petitioner has provided evidence the inventor has agreed in writing to assign the invention to the applicant. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to 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 a statement 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. See MPEP 409.03(f) Petitioner has failed to provide a statement of a person having first hand knowledge that inventor Reid was employed at the time of the invention.

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

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 present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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:	U.S. Patent and Trademark Office

(FedEx, UPS, DHL, etc.) Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Gerald Glanzman
Yee & Associates, P.C.
P.O. Box 802333
Dallas, Texas 75380

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
11400 BURNET ROAD
AUSTIN TX 78758

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of
William J. Reid
Application No. 09/620,350
Filed: July 20, 2000
Attorney Docket Number: AUS990912US1

Title of Invention: System, Apparatus and Method for Updating Security Configurations of a Plurality of Servers from a Centralized Directory Server

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed January 14, 2008.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor Reid has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition and surcharge fee and included a statement of the non-signing inventors' last known addresses in the petition. Proprietary interest in the application has been established.

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 inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

The address on the petition differs from the correspondence address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Publishing Division for processing into a patent

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Gerald H. Glanzman
Yee & Associates, P.C.
PO Box 802333
Dallas, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William J. Reid
7819 Pencross Lane
Dallas Texas 75248

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MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of
William J. Reid
Application No. 09/620,350
Filed: July 20, 2000
Attorney Docket Number: AUS990912US1
Title of Invention: System, Apparatus and Method for Updating Security Configurations of a Plurality of Servers from a Centralized Directory Server

: LETTER

Dear Mr. Reid :

You are named as the sole 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(b). Should a patent be granted on the application you will be designated therein as a co-inventor.

As the 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 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 the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

ATTN: DAVID MIMS

UNITED STATES 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 1 1 2004
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PAPER NO.

DOCKETED

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

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AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of
Christopher G.Hipp
Application No. 09/620,409
Filed: July 20, 2000
Attorney Docket No. 067856.0105

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 6, 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 July 28, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 2182 for further processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Douglas X. Rodriguez
STEIN, MCEWEN & BUI LLP
1400 Eye St. N.W., Suite 300
Washington, D.C. 20005

MAILED

JUL 13 2005

Technology Center 2100

In re Application of:
Jae-seong SHIM
Appl. No.: 09/620,462
Filed: July 20, 2000
For: SCRAMBLER AND SCRAMBLING METHOD

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), June 08, 2005 to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the enclosed copy of "DVD Specifications for Read-Only Disc/Part 1 Physical Specifications Version 1.04" submitted on June 08, 2005 be expunged from the record. Petitioner states that the information contains materials that are subject to a proprietary which has not been made public. The petition fee set forth in 37 CFR 1.17(h) has been.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Law Offices of IMAM & Associates
Two North Second Street
Suite 1100
San Jose, CA 95113

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OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Estakhri et al. :
Application No. 09/620,544 : ON PETITION
Filed: July 21, 2000 :
Attorney Docket No. 38979-11C2 :

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

The petition is **DISMISSED**.

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 June 5, 2001, which set a shortened statutory period for reply of three (3) months. A three-month extension of time was filed on January 23, 2002. Accordingly, a Notice of Abandonment was mailed on February 1, 2002.

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 35 U.S.C. § 704.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 5, 2001. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), and amendment that prima facie places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

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

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

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

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

Latrice Bond

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

"Courtesy Copy of Advisory Action"

Advisory Action	Application No.	Applicant(s)	
	09/620,544	ESTAKHRI ET AL.	
	Examiner	Art Unit	
	Reginald G. Bragdon	2186	

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

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

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

a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.

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

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

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

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

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

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

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

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

NOTE: *See Continuation Sheet*.

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

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

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

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

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

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

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *2-14*.

Claim(s) withdrawn from consideration: _____.

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

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

10.☐ Other: _____

Reginald D. Bragdon

Reginald G. Bragdon
Primary Examiner
Art Unit: 2186

Continuation of 2. NOTE: Applicant's amendments to the claims would require further search and/or consideration of the claims.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

Law Office of Imam
111 North Market Street, Suite 1010
San Jose, CA 95113

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
P. Estakhri et al. :
Application No. 09/620,544 : ON PETITION
Filed: July 21, 2000 :
Attorney Docket No. 38979-11CPA2 :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 5, 2001, 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 filed on January 23, 2002 (certificate of mailing December 3, 2001). Accordingly, the above-identified application became abandoned on December 4, 2001.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 5, 2001. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

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

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

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

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

Latrice Bond

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

"Courtesy Copy of Advisory Action"

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. 22

Maryam Imam
Law Offices of Imam & Associates
111 North Market Street, Suite 1010
San Jose, CA 95113

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APR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Estakhri et al. :
Application No. 09/620,544 :
Filed: July 21, 2000 :
Attorney Docket No. 38979-11C2 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 9, 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 June 5, 2001, which set a shortened statutory period for reply of three months. A three-month extension of time under the provisions of 37 CFR 1.136 was submitted on January 23, 2001 (certificate of mail dated December 3, 2001). Accordingly, the application became abandoned on December 4, 2001.

It is noted that the Request for Continued Examination, and the RCE and petition transmittal listing the submitted documents thereon are filed together as one document. Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

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 2186 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

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

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

FEB 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 10

In re Application of
Darius J. Preisler
Application No. 09/620,581
Filed: July 20, 2000
For: OCCUPANT PROTECTION SYSTEM FOR VEHICLE WITH AIR BAG

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 8, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated September 23, 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.

cps/1/21/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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JUN 16 2008

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:
Nimi, et al.	: DECISION ON APPLICATION
Application No. 09/620,715	: FOR PATENT TERM ADJUSTMENT
Filed: February July 20, 2000	:
Atty. Dkt. No.: FUJO 17.577	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed January 2, 2008. This matter is being properly treated under 37 CFR 1.705(b).

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

The Determination of Patent Term Adjustment mailed October 2, 2007 indicated a PTA to date of 646 days. The instant application for PTA was timely filed. Applicants argue that the application is entitled to an adjustment of 661 days.

The correct PTA at the time of the allowance is 676 days.

Applicants do not contest the adjustment of three days under 37 CFR 1.702(a)(2) in connection with the mailing of the final rejection on April 1, 2005. Applicants do not contest the various reductions for applicants failure to engage in reasonable efforts to conclude prosecution which to date total 323 days.

Applicants contest that the adjustment under 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action dated May 28, 2004 and indicate that the adjustment should be 981 days.

Applicants arguments have been carefully reviewed and found convincing. The application is entitled to an adjustment of 981 days in accordance with 37 CFR 1.702(a)(1). The adjustment commenced September 21, 2001, the day after the date that is 14 months after the date that the application was filed, and ended May 28, 2004, the date that the non-final Office action was mailed. *See*, 37 CFR 1.703(a)(1).

Best Available Copy

In view of the mail date of the non-final Office action on May 28, 2004, the reduction in connection with the response thereto has been properly recalculated. In accordance with 37 CFR 1.704(b), the reduction is 93 days and not 108 days as previously assessed. The reduction commenced August 29, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended November 29, 2004, the date that the response thereto was filed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 676 days (Office delays totaling 984 days less applicants delays totaling 308 days).

The required PTA application fee of $200.00 has been charged to applicant's deposit account as authorized.

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

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

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

Kery A Fries

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

Enclosure: Adjusted PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 6/11/2008
Time: 11:20:33

PTA Calculations for Application: 09/620715			
Application Filing Date:	07/20/2000	PTO Delay (PTO):	969
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	323
Post-Issue Petitions:	0	Total PTA (days):	676
PTO Delay Adjustment:	30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	06/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
63	10/02/2007	MAIL NOTICE OF ALLOWANCE			
62	09/29/2007	ISSUE REVISION COMPLETED			
61	09/29/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	09/29/2007	CASE DOCKETED TO EXAMINER IN GAU			
59	09/29/2007	DOCUMENT VERIFICATION			
58	09/28/2007	NOTICE OF ALLOWABILITY			
57	09/17/2007	DATE FORWARDED TO EXAMINER			
56	09/11/2007	RESPONSE AFTER NON-FINAL ACTION			
55	06/12/2007	MAIL NON-FINAL REJECTION			
54	06/08/2007	NON-FINAL REJECTION			
53	05/12/2007	DATE FORWARDED TO EXAMINER			
52	05/01/2007	AMENDMENT AFTER FINAL REJECTION			
51	02/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
50	02/20/2007	FINAL REJECTION			
49	02/10/2007	DATE FORWARDED TO EXAMINER			
48	01/31/2007	RESPONSE AFTER NON-FINAL ACTION			
47	11/01/2006	MAIL NON-FINAL REJECTION			
46	10/30/2006	NON-FINAL REJECTION			
45	10/10/2006	DATE FORWARDED TO EXAMINER			
44	09/19/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	10/10/2006	DATE FORWARDED TO EXAMINER			
42	09/19/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		34	38
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

41	10/10/2006	ABANDONMENT IF CPA)			
40	09/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	09/19/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	05/16/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	05/12/2006	FINAL REJECTION			
36	05/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
35	05/03/2006	DATE FORWARDED TO EXAMINER			
34	04/24/2006	RESPONSE AFTER NON-FINAL ACTION		90	31
33	04/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
31	10/24/2005	MAIL NON-FINAL REJECTION			
30	10/21/2005	NON-FINAL REJECTION			
29	10/11/2005	DATE FORWARDED TO EXAMINER			
28	09/29/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	07/20/2000	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	10/04/2005	DATE FORWARDED TO EXAMINER			
25	09/30/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	22
24	10/04/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
23	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	04/01/2005	MAIL FINAL REJECTION (PTOL - 326)	3		18
21	03/30/2005	FINAL REJECTION			
20.7	07/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/17/2005	DATE FORWARDED TO EXAMINER			
18	11/29/2004	RESPONSE AFTER NON-FINAL ACTION		108	13
17	11/29/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	11/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	05/28/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			

14	05/28/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
13	05/13/2004	MAIL NON-FINAL REJECTION	966		-1
12	05/12/2004	NON-FINAL REJECTION			
11	10/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	03/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	10/06/2000	CASE DOCKETED TO EXAMINER IN GAU			
8	07/20/2000	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	09/28/2000	CASE DOCKETED TO EXAMINER IN GAU			
6	09/18/2000	APPLICATION DISPATCHED FROM OIPE			
5	09/14/2000	CORRESPONDENCE ADDRESS CHANGE			
4	09/11/2000	CORRESPONDENCE ADDRESS CHANGE			
3	09/11/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/15/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/20/2000	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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JUN 0 1 2006

OFFICE OF PETITIONS

DARBY & DARBY P.C
P.O.BOX 5257
NEW YORK NY 10150-5257

In re Application of:
Herzberg et al.
Application No. 09/620,732
Filed: July 20, 2000
Docket No.: 06727/000H437-US0

: ON PETITION

This is a decision on the petition filed December 30, 2005, under 37 CFR 1.182 asking that the USPTO favorably reconsider applicant's Request for a Pre-Appeal Brief Review.

The petition is **dismissed**.

Petitioner notes that on December 20, 2005, the USPTO held that as applicant's December 1, 2005, Pre-Appeal Request for Review ("Request") exceeded the permitted 5 pages, the request was improper and as such the requested conference would not be held. Petitioner asserts that as the arguments were contained in 5 pages, and the 6th page merely contained the 3 line conclusion and signature, such indicates "essential compliance." Petitioner further contends that a failure to conduct the Request will adversely impact both applicant and the USPTO.

The USPTO announced July 12, 2005, in the *Off. Gaz. Pat. Off.*, a pilot program whereby an applicant could request, concurrently with the filing of a Notice of Appeal, a review of the legal and factual basis of the rejections, to identify those instances where the necessity of proceeding with the appeal could be obviated. If the requestor met all the stated conditions the USPTO would designate a panel of examiners, including at least a supervisor and the examiner, experienced in the field of technology, to review the rejections identified in the Request, the application itself, and the appropriate evidence in support of the rejections. The resulting decisions would summarize the status of all pending claims and issue one of four findings, including No. 4: that the Request failed to comply with the submission requirements and was therefore dismissed, which is what happened here.

The O.G. notice clearly stated, *inter alia*, one condition for consideration:

> The request may not be more than five (5) pages total and the remarks should be drafted with the expectation that for a clear error in fact or other deficiency, a long detailed explanation is not needed.

The USPTO indicated it stood ready to commit additional resources to this application that might, in turn, save applicant additional time and expense, on the condition that the Request satisfy all requirements of the O.G. Notice. Compliance *vel non* with the 5 page maximum limitation for the Request program was a circumstance entirely within the control of petitioner, particularly given the capabilities of current word processing programs. It should be noted that 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and

procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As such, there is no adequate showing of an extraordinary situation in which warrants circumvention of the requirement that the Request be limited to 5 pages. See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require an extraordinary remedy, when a party makes an avoidable mistake in filing papers).

Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of extraordinary relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc.,195 USPQ 586, 588 (Comm'r Pats. 1977). Indeed, the very reasons set forth in the petition should have been adequate motivation for petitioner to ensure that the Request was compliant with the above-mentioned O.G. notice. As any "penalty" arises from petitioner's own actions and inactions, coupled with his failure to apply published USPTO procedure, he is not in a strong position to request extraordinary relief. See Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985) (petitioner's failure to heed published notice of USPTO policy will not be permitted to shift, in equity his lack of diligence onto the USPTO).

In any event, the adverse treatment of the Request (presentation of which is entirely optional with any applicant), does not unduly prejudice petitioner. Should this appeal proceed further, then petitioner will still obtain a mandatory appeal conference–which considers the same issues addressed by an acceptable Request-- upon the presentation of an acceptable Brief on Appeal See MPEP 1207.01

This application is being referenced to the Technology Center.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,813,640	2004-11-02	09/620,781	2000-07-21	MDNA3C

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	/Andy Pho/	Date (YYYY-MM-DD)	2009-01-08
Name	Andy T. Pho	Registration Number	48862

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. 6813640
Issue Date: November 2,2004
Application No. 09620781
Filed: July 21,2000
Attorney Docket No. MEDIDNA.018C1

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

This is a decision on the electronic petition, filed January 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

MAIL

MAY 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

In re Application of:
Thomas J. Cloonan
Application No. 09/620,821
Filed: July 21, 2000
For: CONGESTION CONTROL IN A NETWORK DEVICE HAVING A BUFFER CIRCUIT

ON PETITION

This is a decision on the petition filed October 31, 2002, to withdraw the holding of abandonment. The petition is being treated pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The Notice of Abandonment was mailed October 1, 2002 for failure to file a proper reply to the Final Office action mailed on March 18, 2002.

Petitioner alleges to have timely filed an After Final amendment via facsimile on April 29, 2002. In support thereof, a copy of the fax receipt generated by the PTO, which serves as evidence of timely receipt by the PTO, is included with the petition. Furthermore, the response bears a proper certificate of mailing with a deposit date of April 29, 2002 in compliance with the requirements of 37 CFR 1.8(a)(1). Therefore, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

DECISION ON SUFFICIENCY OF RESPONSE

MPEP § 714.13 [R-1] Amendments After Final Rejection or Action, Procedure Followed, states in part:

> FINAL REJECTION — TIME FOR REPLY
> If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action advising applicant of the status of the application, <u>but in no event can the period extend beyond 6 months from the date of the final rejection</u>...

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to:

(A) an amendment complying with 37 CFR 1.116;

(B) a Notice of Appeal (and appeal fee); or

(C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e., an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e). RCE practice under 37 CFR 1.114 does not apply to utility or plant patent applications filed before June 8, 1995 and design applications.

If no appeal has been filed within the period for reply and no amendment has been submitted to make the application allowable or which can be entered in part (see MPEP § 714.20), the application stands abandoned. [emphasis added]

Petitioner successfully demonstrated that a reply was timely filed to the outstanding Final Office action as discussed supra. However, as set forth in MPEP §714.13 above, although the submission was deemed to be timely filed, entry is not a matter of right. The response was forwarded to the examiner for consideration. The examiner has determined as per the attached Advisory Action, that the After Final submission did not place the application in condition for allowance. Given that the submission did not properly comply with the requirements of 37 C.F.R § 1.113, the application remains abandoned.

Accordingly, the petition is **DENIED.**

The application is being forwarded to the file repository. Applicants may wish to consider filing of a petition under 37 C.F.R §1.137(b) if they wish to revive the application.

Jin F. Ng
Technology Center 2600
(703) 305-4800

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Thomas J. Cloonan
Application No. 09/620,821
Filed: July 21, 2000
Attorney Docket 4807.00009

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on June 19, 2002, for failure to submit a timely response to the final Office action mailed on March 18, 2002, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply pursuant to 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed October 1, 2002.

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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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

Petitioner has submitted a Request for Continued Examination (RCE) and preliminary amendment. The amendment submitted with the petition, has been identified as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2664 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHULTE ROTH & ZABEL
919 THIRD AVENUE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of :
Masayuki Takayama et al :
Application No. 09/621,045 : ON PETITION
Filed: July 21, 2000 :
Attorney Docket No. 10112-009001/K23-123017 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 19, 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 October 17, 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 2683 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

#18

Schulte Roth & Zabel LLP
919 Third Avenue
New York NY 10022

In re Application of
Masayuki Takayama, et al.
Application No. 09/621,045
Filed: July 21, 2000
For: **MOBILE TELEPHONE SET**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment pursuant to MPEP §711.03(c) and 37 CFR §1.181(a), filed February 17, 2005. No fee is required.

This application was held abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance mailed October 24, 2003. A Notice of Abandonment was mailed January 13, 2005.

Petitioner states that the Notice of Allowance was not receive. The petition was accompanied by a declaration from a John C. Garces and Wendy Nelson, and also a copy of a docket record.

Pursuant to MPEP § 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 statement from the practitioner stating:

(a) that the Office communication was not received by the practitioner; and
(b) personally attesting to a search of the file jacket and docket records indicates that the Office communication was not received;

In addition, the petition must include 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.

The declarations of Mr. Garces and Ms. Nelson state "We are providing this declaration to affirm that a search of the file jacket and docket record in connection with the above-identified patent application were performed". Given that the co-signed declaration does not provide clear indication as to the person attesting to the search of the file jacket (required of the practitioner), the petition does not comply with the requirements of a successful petition to withdraw the holding of abandonment due to the lack of a statement from the Practitioner attesting to a personal search of the file jacket and docket records and indicating that the office communication

was not received.

Moreover, there is no evidence of record that John C. Garces and Wendy Nelson (Petitioners) were ever granted power of attorney in the application. Therefore, Petitioners are not the practitioner of record in which to make the requisite statement.

Accordingly, the petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision, be executed by a practitioner of record and include the information as outlined above. Alternatively, practitioner may file a petition to revive under 37 CFR §1.137.

The application is being forwarded to the Technology Center's file repository.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

#20

Schulte Roth & Zabel LLP
919 Third Avenue
New York NY 10022

In re Application of
Masayuki Takayama, et al.
Application No. 09/621,045
Filed: July 21, 2000
For: **MOBILE TELEPHONE SET**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request for reconsideration filed May 31, 2005. No fee is required.

This application was held abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance mailed October 24, 2003. A Notice of Abandonment was mailed January 13, 2005.

Petitioner states that the Notice of Allowance was not receive. The request for reconsideration was accompanied by a declaration from a Anna Vishev and also a copy of a docket record.

Pursuant to MPEP § 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 statement from the practitioner stating:

(a) that the Office communication was not received by the practitioner; and
(b) personally attesting to a search of the file jacket and docket records indicates that the Office communication was not received;

In addition, the petition must include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has satisfied the requirements set forth above in the petition filed December 20, 2002.

Accordingly, the petition is **GRANTED**. The holding of Abandonment is hereby withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for preparation of, and mailing a new Notice of Allowance. Given that it has been established that applicants did not receive the Notice of Allowance, it is also presumed that applicants did not receive a copy of the considered IDS which accompanied the Notice of Allowance. Therefore, the technical support staff will also re-mail a copy of the considered IDS with the new Notice of Allowance.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 9

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of
William Dere et al.
Application No. 09/621,400
Filed: Jully 21, 2000
Attorney Docket Number: 11283/11

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 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 July 31, 2002. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 1, 2002. Accordingly, a Notice of Abandonment was mailed April 1, 2003.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 2171 for appropriate action on the amendment filed December 27, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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)
6818046	2004-11-16	09621408	2000-07-21	4674.ASOR.PT

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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	/Asael T. Sorensen/	Date (YYYY-MM-DD)	2010-05-20
Name	Asael T. Sorensen		
Enter Reel and Frame Number		Remove	
Reel Number	024380	Frame Number	0872
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6818046
Issue Date: November 16,2004
Application No. 09621408
Filed: July 21,2000
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 20,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6390154
Issue Date: May 21,2002
Application No. 09621425
Filed: July 21,2000
Attorney Docket No. ZL024/00001

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

This is a decision on the electronic petition, filed June 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6390154	2002-05-21	09621425	2000-07-21	ZL730-02001

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 F Salazar/	Date (YYYY-MM-DD)	2010-06-17
Name	John F Salazar	Registration Number	39353

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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OFFICE OF PETITIONS

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO CA 90245-0956

In re Application of	:	
Raynold M. Kahn et al.	:	DECISION ON PETITION
Application No. 09/621,476	:	UNDER 37 C.F.R. §1.182
Filed: July 21, 2000	:	
Attorney Docket No. PD-200043	:	
Title: SUPER ENCRYPTED STORAGE	:	
AND RETRIEVAL OF MEDIA PROGRAMS	:	
IN A HARD-PAIRED RECEIVER AND	:	
STORAGE DEVICE	:	

This is in response to the petition filed on September 28, 2006, pursuant to 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer.

On October 5, 2005, Petitioner's Representative submitted a terminal disclaimer to overcome a nonstatutory double patenting rejection over copending application No. 09/620,772 in a non-final Office action mailed July 14, 2005. Petitioner's Representative has set forth that the double patenting rejection is the only rejection remaining in the present application, 09/620,772 remains rejected on other grounds, and submits that the terminal disclaimer is no longer necessary.

With the present petition, Petitioner's Representative has submitted the petition fee. The Examiner has reviewed Petitioner's Representative's request, and has determined that the previously filed terminal disclaimer should be withdrawn.

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

The previously filed terminal disclaimer is hereby **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 present application can receive further processing.

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

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Director's Office
Office of Patent Publication

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

In re Application of
INAGUMA, MITSUHIKO, et al. :
Application No. 09/621,527 : **DECISION ON PETITION**
Filed: July 21, 2000 :
Attorney Docket No. ADACHI P188USP1 :

This is a decision on the Petition For Withdrawal of Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on November 9, 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.

The application was held abandoned for applicant's failure to timely pay the required issue fee and publication fee. The issue fee and publication fee — Part B Fee(s) Transmittal, form PTOL-85B — was received on April 18, 2005 with Certificate of Mailing or Transmission date April 15, 2005, which is after the (3) month statutory period set in the Notice of Allowance — due date April 14, 2005.

Petitioner notes that the Transmittal form had a typographical erred and incorrectly indicated a Certificated of Mailing date of April 15, 2005. Further, that the enclosed copy of their associated letter the to the client, confirms that the fees was infact timely paid on April 14, 2005.

Unfortunately, the associated letter to the client only acknowledges the communication with the client on April 14, 2005, but doesn't provide evidence to support mailing of the Transmittal on the same date. Therefore, it can only be determined that the Transmittal was mailed on the date indicated by the executed certificate of mailing.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website http://www.uspto.gov

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application

or

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

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

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

Thomas E Hawkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

In re Application of
INAGUMA, MITSUHIKO, et al. :
Application No. 09/621,527 : **DECISION ON PETITION**
Filed: July 21, 2000 :
Attorney Docket No. ADACHI P188USP1 :

This is in response to the Request For Reconsideration Of Decision On Petition for Withdrawal Of Notice Of Abandonment, received in the United States Patent and Trademark on February 16, 2006.

The Decision On Petition dismissing the Petition For Withdrawal of Notice of Abandonment received in the USPTO on November 9, 2005 is hereby **VACATED**.

The Petition For Withdrawal of Notice of Abandonment is **GRANTED.**

The transmittal form specifies, under "additional enclosure" that a postcard, the submission of the issue fee, and a supplemental declaration were enclosed with the transmittal form. The transmittal form also includes a proper certificate of mailing, dated April 14, 2005. The postcard receipt specifies that the supplemental declaration, the submission of the issue fee, the check for $1,400, and the transmittal sheet were received together. The OIPE "Date Stamp" on the postcard receipt matches the OIPE stamp on the Fee(s) Transmittal, Form PTOL 85-B that appears in the Office's database. Applicant's post card log shows that the supplemental declaration was mailed on April 14, 2005. Finally, applicant's file disbursement sheet shows postage entries for April 14, 2005, and no postage entries for April 15, 2005, indicating that nothing was mailed on April 15, 2005.

In view of applicant's showing, the issue fee is accepted as timely submitted in compliance with 37 CFR § 1.8, and the holding of abandonment withdrawn.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of
Andreas Muhlberger, et al.
Application No. 09/621,528
Filed: July 21, 2000
Attorney Docket No. PHO 99-534

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 6, 2006.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before June 2, 2006. A Notice of Abandonment was mailed on June 23, 2006. Receipt is acknowledged of the requisite issue fee on July 6, 2006.

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. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ADAM L. STROUD
PHILIPS ELECTRONICS NORTH AMERICA CORP.
1109 MCKAY DRIVE MS41-SJ
SAN JOSE, CA 95131

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

J. MICHAEL MARTINEZ DE ANDINO ESQ.
HUNTON & WILLIAMS
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD ST.
RICHMOND VA 23219-4074

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OFFICE OF PETITIONS

In re Application of
Grizzle, et al.
Application No. 09/621,591
Filed: July 21, 2000
Attorney Docket No. 58568.000002

DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.48(a) to correct inventorship and the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2).

The petition under 37 CFR 1.183 is **granted**

The petition under 37 CFR 1.48(a) is also **granted**.

Petitioner is seeking to have the inventorship for the above-cited application amended to remove the names of Stephen A. Zegler and Paul L. Weinle. Petitioner states that, although Mr. Zegler and Mr. Weinle made contributions to the invention embodied by the parent application 09/039,913, Mr. Zegler and Mr. Weinle made no contribution to the invention embodied by the present application. Petitioner further states that an error on the part of the attorney of record resulted in Mr. Zegler and Mr. Weinle being named as inventors in the above-cited application, and that this was done without deceptive intent on the part of the attorney. Petitioner indicates that petitioner was unable to locate Mr. Zegler and Mr. Weinle and that they are no longer employed by the assignee.

The requirement of 37 CFR 1.48(a)(2) that petitioner provide a statement from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part is waived pursuant to 37 CFR 1.183.

The petition under 37 CFR 1.48(a) is granted as the requirement of 37 CFR 1.48(a)(2) is waived and petitioner has provided: 1) a request to remove the names of Mr. Zegler and Mr. Weinle, 2) an declaration under 37 CFR 1.63 executed by the actual inventors, and 3) a statement by the assignee consenting to the correction of inventorship.

The application is being forwarded to Technology Center 1700.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

Paper No. 4

In re application of
Roger Marx Desenberg
Application No. 09/621,663 :
Filed: July 24, 2000 :
For: SYSTEMS, METHODS, AND COMPUTER PROGRAM PRODUCTS FACILITATING REAL-TIME TRANSACTIONS... :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 4, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. Applicants state that this is a supplemental request of one that was filed November 4, 2003, however a review of the file shows no indication that this request was ever received.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions B) and C) above.

As to condition B) the stated reason for the withdrawal is "Roger Desenberg has contacted us and we have informed him of our pending Motion To Withdraw and have further informed him that we no longer wish to represent him this matter..". This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by *clearly specifying* one of the valid reasons for withdrawal listed under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

As to condition C), there now appears to be less than 30 days remaining in the response period for the Office action mailed September 15, 2003.

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

SNM/cps: 2/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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In re Application of	:	
Ashby, et. al.	:	DECISION ON REQUEST
Application No. 09/621,670	:	TO WITHDRAW FROM
Filed: July 24, 2000	:	RECORD
Attorney Docket No. 034298-068	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on May 12, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There is an outstanding Office action mailed April 7, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Thomas A. Miller
Miller, Matthias & Hull, LLP
One North Franklin Street
Suite 2350
Chicago, IL 60606

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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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Mark Ashby	: DECISION ON REQUEST FOR
Patent Number	: 7625352	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/621,670	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **759** 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
P.O. Box 1450
Alexandria, VA 22313-1450
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JEANETTE HARMS
BEVER HOFFMAN AND HARMS LLP
2099 GATEWAY PLACE STE 320
SAN JOSE, CA 95110

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Hadi Partovi et al	:	
Application No. 09/621,715	:	DECISION ON PETITION
Filed: July 24, 2000	:	TO WITHDRAW
Attorney Docket No. TM00-005.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 7, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jeanette Harms has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Denise Pothier for

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Harrity Snyder, L.L.P.
11350 Random Hills Road
Suite 600
Fairfax, VA 22030

cc: Bever Hoffman & Harms LLP
1432 Concannon Blvd.
Bldg. G
Livermore, CA 94550-6006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

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

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MAR 1 9 2004

OFFICE OF PETITIONS

In re Application of
Sepe, Christopher Thomas
Application No. 09/621,716
Filed: July 24, 2000
Attorney Docket No. 018563-003300US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed May 23, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 24, 2003. A Notice of Abandonment was mailed on February 9, 2004.

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

The file is now being forwarded to Technology Center 3600 for further examination on the merits.

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

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

PET DEC

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN - 1 2004

In re Application of	:	
Gordon N. McGrew	:	
Serial Number : 09/621,780	:	WITHDRAWAL
Filed : July 21, 2000	:	FROM
For : CHEWING GUM CONTAINING	:	ISSUE
MEDICAMENT ACTIVE AGENTS	:	

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.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO 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 to 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 deposit account.

The application is being forwarded to the examiner for action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven P. Shurtz
Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

cc:Allowed Files, Pk3-915

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN - 1 2004

In re Application of	:	
Gordon N. McGrew	:	
Serial Number : 09/621,780	:	WITHDRAWAL
Filed : July 21, 2000	:	FROM
For : CHEWING GUM CONTAINING	:	ISSUE
MEDICAMENT ACTIVE AGENTS	:	

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.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO 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 to 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 deposit account.

The application is being forwarded to the examiner for action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven P. Shurtz
Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

cc:Allowed Files, Pk3-915

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1/25/05

In re Application of	:	
Gordon N. McGrew	:	NOTICE OF WITHDRAWAL
Serial No. 09/621,780	:	FROM ISSUE
Filed: July 21, 2000	:	UNDER 37 CFR 1.313(b)
For: CHEWING GUM CONTAINING	:	
MEDICAMENT ACTIVE AGENTS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Milton Cano at (571) 272-1398.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven P. Shurtz
Brinks Hofer Gilson & Lione
P O Box 10395

cc: Allowed Files—Pk3-910

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Paper No. 26

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202-5141

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DEC 02 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Louis Brown Abrams, et al.
Application No. 09/621,830
Filed: July 24, 2000
Attorney Docket No. 7167

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 26, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 9, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After the application is received in the Office of Petitions, the application will be forwarded to Technology Center AU 1771 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).

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COMMISSIONER FOR PATENTS
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Paper No. 8

Lerner and Greenberg
PO Box 2480
Hollywood, FL 33022-2480

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OFFICE OF PETITIONS

In re Application of :
Thomas Hein et al. :
Application No. 09/621,905 : ON PETITION
Filed: July 24, 2000 :
Attorney Docket No. GR 99 P 2371 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is Granted

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application (Notice) mailed September 25, 2000, which set a shortened statutory 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 have been obtained. Accordingly, the application became abandoned on November 26, 2003.

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

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

Latrice Bond

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

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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B NOEL KIVLIN
CONLEY ROSE & TAYON PC
P O BOX 398
AUSTIN TX 78767-0398

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Cynthia Mary Milton	:	
Application No. 09/621,934	:	ON PETITION
Filed: July 24, 2000	:	
Attorney Docket No.	:	

This is a decision on the renewed petition to withdraw the holding of abandonment, filed June 6, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers, mailed March 11, 2003. This Office action set a period for reply of thirty (30) days. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on April 12, 2003. A Notice of Abandonment was mailed on May 21, 2003. Applicant filed a petition to withdraw the holding of abandonment on June 4, 2003. However, the petition was dismissed in a decision mailed on December 10, 2003.

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] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

On renewed petition, petitioner has submitted a copy of a master docket record, showing all replies docketed for a due date of April 11, 2003. An entry for the instant application is absent, supporting the conclusion that the Notice to File Corrected Application Papers was not received.

There is no indication that petitioner submitted a copy of his response to the Notice to File Corrected Application Papers with his petition.

As such, the application is being forwarded to the Office of Data Management for re-mailing of the March 11, 2003 Notice to File Corrected Application, 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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

12/10/03

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 18

B NOEL KIVLIN
CONLEY ROSE & TAYON PC
P O BOX 398
AUSTIN, TX 78767-0398

In re Application of	:	
Cynthia Mary Milton	:	
Application No. 09/621,934	:	**DECISION ON PETITION**
Filed: July 24, 2000	:	
Attorney Docket No. 5181-71100	:	

This is a decision on the Response To Notice Of Abandonment Mailed March 29, 2001, received in the United States Patent and Trademark Office (USPTO) on June 4, 2003, which is being treated as a Petition To Withdraw Holding Of Abandonment in the above-identified application.

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

The application was held abandoned for failure to timely respond to the Notice To File Corrected Application Papers (copy attached herewith) mailed on March 11, 2003, which set a two months time period to reply. However, the Notice of Abandonment indicated that the application was abandoned for failure to timely file new formal drawings as required in the Notice of Allowability.

The Office has no record of any form of response to the Notice To File Corrected Application Papers; therefore, the application was properly abandoned.

Although this petition for withdrawal of the holding of abandonment is being dismissed, further petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must be accompanied by the following:

  (1) The required reply to the outstanding Office action or notice, unless previously filed;
  (2) The petition fee set forth in § 1.17(l);
  (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

  With respect to an application filed before June 8, 1995, any petition under § 1.137(a) or (b) that is filed more than six months after the abandonment date must —according to § 1.137(d)—be accompanied by a terminal disclaimer with disclaimer fee.

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be accompanied by the following:

  (1) The required reply to the outstanding Office action or notice, unless previously filed;
  (2) The petition fee as set forth in § 1.17(m);
  (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

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

By mail:	Mail Stop Petitions Commissioner for Patents P. O. Box 1450 Alexandria, Va 22313-1450
By facsimile:	703-308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Rm. 3C23 2201 South Park Place Arlington, VA

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas E Hawkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

B NOEL KIVLIN
CONLEY ROSE & TAYON PC
P O BOX 398
AUSTIN TX 78767-0398

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APR 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Cynthia Mary Milton	:	
Application No. 09/621,934	:	ON PETITION
Filed: July 24, 2000	:	
Attorney Docket No.	:	

This is a decision on the petition to withdraw the holding of abandonment, filed January 20, 2004. The petition was forwarded to the Office of Petitions for consideration.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers, mailed March 11, 2003. This Office action set a period for reply of thirty (30) days. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on April 12, 2003. A Notice of Abandonment was mailed on May 21, 2003. Applicant filed a petition to withdraw the holding of abandonment on June 4, 2003. However, the petition was dismissed in a decision mailed on December 10, 2003.

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] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition is only a summary of the prosecution history for the instant application. As set forth above, to establish that the March 11, 2003 Notice was not received, petitioner would need to submit his docket records showing all of his replies docketed for the due date of April 11, 2003.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

#22

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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B NOEL KIVLIN
CONLEY ROSE & TAYON PC
P O BOX 398
AUSTIN TX 78767-0398

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Cynthia Mary Milton	:	
Application No. 09/621,934	:	ON PETITION
Filed: July 24, 2000	:	
Attorney Docket No.	:	

This is a decision on the renewed petition to withdraw the holding of abandonment, filed June 6, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers, mailed March 11, 2003. This Office action set a period for reply of thirty (30) days. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on April 12, 2003. A Notice of Abandonment was mailed on May 21, 2003. Applicant filed a petition to withdraw the holding of abandonment on June 4, 2003. However, the petition was dismissed in a decision mailed on December 10, 2003.

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] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

On renewed petition, petitioner has submitted a copy of a master docket record, showing all replies docketed for a due date of April 11, 2003. An entry for the instant application is absent, supporting the conclusion that the Notice to File Corrected Application Papers was not received.

There is no indication that petitioner submitted a copy of his response to the Notice to File Corrected Application Papers with his petition.

As such, the application is being forwarded to the Office of Data Management for re-mailing of the March 11, 2003 Notice to File Corrected Application, 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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Cynthia Mary Milton	: DECISION ON REQUEST FOR
Patent Number	: 7591383	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/621,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2028** 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

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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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 05/17/2010

Applicant : Cynthia Mary Milton
Patent Number : 7591383
Issue Date : 09/22/2009
Application No : 09/621,934
Filed : 07/24/2000

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **2064** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (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** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA 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 PTA 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 of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken 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).

NOV 2 8 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bradford J. Duft
BROBECK, PHLEGER & HARRISON
12390 El Camino Real
San Diego, CA 92130

In re Application of:	:	
BEELEY, Nigel, R.A., et al.	:	DECISION ON PETITION
U.S. Application No.: 09/622,104	:	TO REVIVE ABANDONED
PCT No.: PCT/US99/02603	:	APPLICATION UNDER 37
International Filing Date: 05 February 1999	:	CFR 1.137(b)
Priority Date: 13 February 1998	:	
Attorney's Docket No.: 256/153	:	
For: NOVEL MIXED AMYLIN ACTIVITY	:	
COMPOUNDS	:	

The petition to revive under 37 CFR 1.137(b) filed 16 July 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "delay in responding to the above-noted Office Action in the above-captioned application was unintentional" and the accompanying explanation for the delay meet the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 29 August 2000 (an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration after the thirty month deadline), 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.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371(c) date is **16 July 2001.**

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

#4

The petition fee required for revival of an unintentionally abandoned application pursuant to 37 C.F.R. §1.17(m) of $620.00 is enclosed herewith, as is the outstanding surcharge fee of $65.00 for supplying a declaration later than 30 months from the priority date.

Applicants' representative declares that the delay in responding to the above-noted Office Action in the above-captioned application was unintentional. Applicants changed representatives in October of 2000 and believed that a timely filed response in this action had been effected prior to such change when, in fact, it had not. Recently, on 27 June 2001, Applicants received a Notice of Abandonment thus alerting them to the truth and now diligently seek revival hereby.

If the enclosed fees are incorrect, please charge or credit our Deposit Account No. 50-1273 for the appropriate amount to revive this application as set forth in 37 C.F.R. §1.17(m). A duplicate copy of this petition is enclosed for your convenience.

Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

Dated: 7/13/01

By: Edward O. Kreusser
Reg. No. 38,523

EOK:jxb

BROBECK, PHLEGER & HARRISON LLP
12390 El Camino Real
San Diego, CA 92130-2081
Telephone: (858) 720-2500
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Paper No. 17

Young & Thompson
745 South 23rd Street, 2nd Fl.
Arlington, VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Jeremy Marshall et al.	:	
Application No. 09/622,159	:	ON PETITION
Filed: September 25, 2000	:	
Attorney Docket No. OML.31	:	

This is a decision on the petition, filed December 3, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to submit a proper reply in a timely manner in reply to the final Office action mailed December 20, 2002. A three (3) month extension of time under 37 CFR 1.136 was submitted on June 20, 2003. Accordingly, the above-identified application became abandoned on June 21, 2003.

The application is being forwarded to Technology Center AU 3751 for further processing.

Latrice Bond

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

2 4 JUL 2002

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Michael E. Whitham
McGuire Woods LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102-4215

In re Application of CHANG, Tae-Sun et al. Application No.: 09/622,200 PCT Application No.: PCT/KR99/00077 International Filing Date: 17 February 1999 Priority Date:13 February 1998 Attorney Docket No.: US 98P 4340 For: A SOLID CATALYST WITH CORE-SHELL CATALYTIC PHASE AND A METHOD OF PREPARATION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition To Revive National Stage Application Under 37 C.F.R. 1.137(b)," filed in the United States Patent and Trademark Office on 18 January 2002 is **GRANTED**.

BACKGROUND

On 17 February 1999, applicants filed an international application, PCT/KR99/00077, which claimed a priority date of 13 February 1998 A demand for international preliminary examination was filed on 22 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office on 19 August 1999. The thirty month period for entering the national stage in the United States expired at midnight on 14 August 2000 (13 August 2000 was a Sunday).

On 14 August 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 31 August 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) 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 1.497(a)-(b) and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 12 September 2000, applicants filed a declaration and power of attorney signed by Guija Li, Tae-Sun Chang, Deug-Hee Cho and Dong-Koo Lee and verified statement claiming small entity.

On 12 October 2000, the Office 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 defective because Young Kil Lee was not listed on the declaration.

On 13 November 2000, applicants filed "Response to Notification of Defective Response; and Request to Proceed with Examination."

On 20 January 2001, applicants filed "Facsimile Re-Submission of Response to Notification."

On 07 June 2001, the Office mailed Notification Regarding Defective Declaration and Notification of Abandonment."

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing a response curing the defects noted by the Patent and Trademark Office was unintentional," is construed to mean 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). If this is not a correct interpretation, applicants must notify the Office immediately. The response to the Notification of Missing Requirements and petition fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 17 February 1999 under 35 U.S.C. §363 and a date of 18 January 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
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PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Musunuri et al.	:
Application No. 09/622,235	:
Filed: August 14, 2000	:
Attorney Docket No. AHP98195	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 11, 2004, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on April 12, 2004. See MPEP 1215.04. A Notice of Abandonment was mailed on October 1, 2004.

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

This matter is now being referred to Technology Center 1600 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

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

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1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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APR 08 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Dominique Hamery
Application No. 09/622,246
Filed: August 15, 2000
For: **PROCESSING OF DIGITAL PICTURE DATA IN A DECODER**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Erroneous Notice of Abandonment, filed December 16, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed May 10, 2004. A Notice of Abandonment was mailed December 13, 2004.

Petitioner alleges to have timely filed a response to said Office communication on July 12, 2004. In support thereof, Petitioner provided evidence in the way of a copy of a stamped post card, copy of an express mail receipt, copy of the response transmittal letter, a copy of a certificate o mailing and a copy of the response filed.

A review of the file records reveals that the original amendment filed on July 12, 2004 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The file will be forwarded to the Technology Center's technical support staff for entry of the amendment filed July 12, 2004. From there, the file will be forwarded to the examiner for consideration in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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APR 08 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OSHA & MAY L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of
Dominique Hamery
Application No. 09/622,246
Filed: August 15, 2000
For: **PROCESSING OF DIGITAL PICTURE DATA IN A DECODER**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Erroneous Notice of Abandonment filed December 16, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed May 10, 2004. A Notice of Abandonment was mailed December 13, 2004.

Petitioner alleges to have timely filed a response to said Office communication on July 12, 2004. In support thereof, Petitioner provided evidence in the way of a copy of a stamped post card, copy of an express mail receipt, copy of the response transmittal letter, a copy of a certificate o mailing and a copy of the response filed.

A review of the file records reveals that the original amendment filed on July 12, 2004 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The file will be forwarded to the Technology Center's technical support staff for entry of the amendment filed July 12, 2004. From there, the file will be forwarded to the examiner for consideration in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

In re Application of	:
Scholl et al.	:
Application No. 09/622,356	: DECISION DISMISSING REQUEST
Filed: August 15, 2000	:
Attorney Docket No. VWP-487-A	:

This is a response to the statement filed August 18, 2003, requesting, in effect, that the accompanying amendment be considered filed on August 14, 2003.

Applicants state that "this Amendment is filed pursuant to the United States Patent and Trademark Office designating the emergency interruption in the service of the USPS beginning August 14, 2003 and is within the meaning of 35 U.S.C. § 21(a) and 37 C.F.R. 1.6(e)."

The USPTO designated the interruption in the service of the USPS that occurred as a result of the power outage on Thursday, August 14, 2003, in the Northeast and Midwest United States as a postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). On August 15, 2003, a notice was posted on the USPTO website which indicated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 during the USPS service interruption, but which was not filed due to the USPS service interruption, should be promptly filed after the termination of the interruption with a statement that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service. Thereafter, on August 19, 2003, a second notice was posted on the USPTO website which indicated that the USPTO had terminated the designation of this interruption in the service of the USPS as postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). This notice stated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 on August 14, 2003, through August 16, 2003, but which was not filed due to the USPS service interruption, should now be filed with the USPTO under 37 CFR 1.10 with a statement that the correspondence would have been deposited with the USPS on August 14, 2003, August 15, 2003, or August 16, 2003, but for the designated interruption in the "Express Mail" service of the USPS. This notice also made it clear that the provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) apply only to postal service interruptions and emergencies and not to other exigencies.

The amendment along with the statement and a one month extension of time was mailed by first class mail on August 18, 2003, and received in the Office on August 21, 2003. The correspondence includes a certificate of mailing stating that this correspondence is being deposited with the United States Postal Service as first class mail on August 18, 2003. There is no evidence that the correspondence would have been filed under 37 CFR 1.10 by Express Mail but for the designated interruption or emergency in "Express Mail" service. The power outage did not prevent correspondence from being deposited in first class mail on August 14, 2003, through August 16, 2003.

The request is dismissed.

After the mailing of this decision, the Office will charge $300.00 ($410.00 owed - $110.00 paid) for the remainder due for a two month extension of time to counsel's Deposit Account No. 25-0115 as authorized in the petition for extension of time.

The application is being forwarded to Technology Center Art Unit 1744 for consideration of the amendment.

Telephone inquiries specific to this matter should be directed to Terry Dey at (703) 308-1201 or Joni Chang at (703) 308-3858.

Joni Y. Chang

Joni Y. Chang
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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June 7, 2004

JUN - 8 2004

Bereskin & Parr
Scotia Plaza, 40 King Street West, 40th floor
Toronto, Ontario M5H 3Y2
Canada

In Re Application of Saunders et al.	:	WITHDRAWAL
Serial No: 09/622,382	:	FROM ISSUE
Filed: January 12, 2001	:	
Attorney Docket Number: 206008	:	

This is a decision on the petition filed May 25, 2004, via facsimile request withdrawing the above-identified application from issue in favor of a continuing examination via a RCE.

37 CFR § 1.313 permits an application to be withdrawn from issue upon petition by the applicant. It further requires that the petition to be accompanied by a fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

A close review of the petition reflects that all of the above mentioned requirements have been met; thus, the petition is **GRANTED**.

This application will be forwarded to Examiner James Vannuncci for continuing examination after mailing of this decision.

Questions or comments concerning this communication should be addressed to Don Wong, Supervisory Patent Examiner of Art Unit 2821 at (571) 272-1834. He can also be reached via email at don.wong@uspto.gov.

James Dwyer
Director, Technology Center 2800
Communications

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LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

In re Application of Simon Reza Saunders
Application No.: 09/622,382
Filed: January 12, 2001
For: **ADAPTIVE MULTIFILAR ANTENNA (INCORRECT PALM TITLE- LIGHT EMITTING DEVICE)**

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue due to unpatentability of one or more claims pursuant to 37 C.F.R. § 1.313.

The U.S. 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 Fee(s) 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 Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Minsun Harvey, Supervisory Patent Examiner, at (571) 272-1835.

The application is being returned to the examiner for taking appropriate action.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

16 AUG 2005

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Leydig Voit & Mayer
Two Prudential Plaza
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Chicago, IL 60601-6780

In re Application of
SAUNDERS et al.
U.S. Application No. 09/622,382
PCT No.: PCT/GB99/00469
Int. Filing Date: 15 February 1999
Priority Date: 16 February 1998
Attorney Docket No.: 206008
For: ADAPTIVE MULTIFILAR ANTENNA

DECISION ON PETITION

The above identified application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. Additionally, this decision is in response to applicants' "Request for Correction of Title of Invention (Accompanying Issue Fee Payment)" filed 26 June 2002.

BACKGROUND

On 16 August 2000, applicants filed materials to initiate the U.S. national stage application of PCT International Application No. PCT/GB99/00469, filed on 01 November 2001. This submission included: a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390); payment of the basic national fee; a Preliminary Amendment; and an executed declaration of inventors. A copy of the PCT International Application No. PCT/GB99/00469 was communicated to the United States Patent and Trademark Office from the International Bureau on 19 August 1999.

On 12 January 2001, applicants filed an executed declaration.

On 31 January 2001, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 12 January 2001. Subsequently, an Official Filing Receipt was issued indicating that "this application is a 371 of PCT/GB99/00469 dated 2/15/1999 which claims benefit of United Kingdom 9803273 dated 02/16/1998." The title of the invention was incorrectly listed as "Dual-Band Octafilar Helix Antenna."

On 26 June 2002, applicants filed "Request for Correction of Title of Invention (Accompanying Issue Fee Payment)."

DISCUSSION

Applicants state in the present petition that "[t]he correct title for the subject application, as set forth above, 'Adaptive Multifilar Antenna.' This is the title set forth in the Transmittal Letter to the United States Designated/Elected Office Concerning Filing under 37 U.S.C. 371 . . . Also, it appears that the incorrect title is the same title as one the citation listed in the International Search Report on the underlying PCT application, specifically, WO 97/11507(PCT/US96/15196)." As noted above, the transmittal letter filed by applicant on 16 August 2000 reveals a clear request for the present application to be a national stage application of PCT International Application No. PCT/GB99/00469, a copy of which was included with the submission. Based on this request, and the description of the subject specification, it is concluded that the contents of published international application PCT/GB99/00469 were the proper specification, claims, and drawings herein. It is clear that international application PCT/US96/15196 (WO 97/11507) was improperly indexed by the USPTO as the specification, claims, and drawings of this application. Accordingly, the USPTO's treatment of international application PCT/GB99/00469 as the subject matter of this application is appropriately corrected, as requested by applicants in the present petition.

CONCLUSION

The petition **GRANTED**.

The Official Filing Receipt will be corrected to read: "this application is a 371 of PCT/GB99/00469 dated 11/01/2001 which claims benefit of 60/245,360 dated 11/02/2000."

The application file will be corrected so that the specification, claims, drawings, and abstract from PCT/GB99/00469 will be made the subject of the present application, and the Preliminary Amendment filed by applicant on 16 August 2000 will be applied thereto.

Leonard Smith
PCT Legal Examiner
Office of Legal Administration

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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JAN 03 2002

BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of
PETERSEN, Michael *et al*
Application No.: 09/622,385
PCT No.: PCT/EP99/01017
Int. Filing Date: 18 February 1999
Priority Date: 18 February 1998
Attorney's Docket No.: A33251
For: PROCESS FOR PREPARING TRIFLUORO-3(R)-HYDROXYBUTRIC ACID DERIVATIVES

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

The decision is in response to applicants' "Response to Notification of Abandonment" filed on 15 October 2001 which is treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 12 September 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 a declaration in compliance with 37 CFR 1.497(a) must be provided. A one-month time period for response was set.

On 06 November 2000, applicants purportedly filed an executed declaration, a petition for a one-month extension, and a check of $240.00 for the surcharge fee and one-month extension fee.

On 18 September 2001, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 within the time period set.

On 15 October 2001, applicants filed the instant petition which was accompanied by, *inter alia*, copies of the documents purportedly filed 06 November 2000, a copy of a check (No. 161462) for $240.00 dated 01 November 2000 and made out to the "Commissioner of Patent and Trademarks", and a stamped postcard receipt.

DISCUSSION

A review of the financial records for the above-identified application show that a

surcharge fee of $130.00 and an extension fee of $110.00 was received on 06 November 2000. However, a search of the application file did not locate the declaration. Nevertheless, MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for the documents submitted 06 November 2000. The filing receipt records that a declaration and POA, petition for one-month extension, and check for $240.00 were received in the USPTO. The U.S. serial number "09/622,385" is listed on the filing receipt along with the attorney docket number. The filing receipt is stamped "OIPE NOV 06 2000" across its face.

Accordingly, applicants have provided *prima facie* evidence that the declaration and other documents listed above were received by the USPTO on 06 November 2000.

DECISION

For the reasons above, the petition to withdraw the holding of abandonment is **GRANTED**. The Form PCT/DO/EO/909 mailed 18 September 2001 is hereby **VACATED**.

The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) was previously paid on 16 August 2000. Applicants paid this fee again on 06 November 2000. Therefore, Deposit Account No. 02-4377 will be credited the additional surcharge fee paid.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 February 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **06 November 2000**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Paper No. 26

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ARLINGTON VA 22201-4714

FEB 3 2005

In re Application of:
Greenaway et al.
Serial No.: 09/622,405
Filed: August 17, 2000
Attorney Docket No.: 124-786

DECISION ON PETITION FOR REFUND

This is a decision on the petition filed June 16, 2004 requesting a refund of the fees for filing the Notice of Appeal on March 3, 2003 and the Appeal Brief on May 2, 2003.

The petition is **DENIED**.

Petitioner asserts that the fees for the Notice of Appeal and Appeal Brief were unnecessary in view of the Board of Patent Appeals and Interferences' Decision on Appeal dated June 8, 2004, and therefore should be refunded.

Authorization to refund fees is set forth under 37 CFR 1.26. 37 CFR 1.26(a) states, in part, as follows:

(a) The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

A review of the record reveals that the filings of the Notice of Appeal and of the Appeal Brief were necessary to resolve the issue of patentability of the claims. The fees for filing a Notice of Appeal and an Appeal Brief are required under 35 U.S.C. § 41(6). As such, refunding of the appeal fees are not authorized since they were required by statute and were not paid by mistake or in excess.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

MAR 0 2

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

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Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 9th Floor
Stamford, CT 06901-2682

In re Application of SALONAHO et al	:	
U.S. Application No.: 09/622,468	:	
Int. Application No.: PCT/FI99/00096	:	DECISION ON PETITION
Int. Filing Date: 09 February 1999	:	
Priority Date: 17 February 1998	:	
Attorney Docket No.: 875.0003USU	:	
For: MEASUREMENT REPORTING IN A TELECOMMUNICATION SYSTEM	:	

This is in response to applicants' "Petition to Issue a Filing Date" filed 05 December 2000.

BACKGROUND

On 09 February 1999, applicants filed international application PCT/FI99/00096, which claimed priority of an earlier Finland application filed 17 February 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 26 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 September 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 17 August 2000.

On 14 August 2000, applicants filed national stage papers in the United States. The submission was accompanied by, inter alia, the requisite basic national fee required by 35 U.S.C. 371(c)(1).

On 05 December 2000, applicants filed the present petition. The petition states that in a telephone conversation on 21 November 2000 with the PCT Help Desk of the USPTO, it became apparent that the USPTO computer system had no record of the above-identified application number.

On 05 February 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905).

DISCUSSION

A review of the application file indicates that the papers filed on 14 August 2000 are present. Furthermore, the USPTO computer system has a record of the above-identified application number.

CONCLUSION

For the reasons above, the petition is DISMISSED AS MOOT.

The application will be returned to the DO/EO/US to await applicants' response to the Notification of Missing Requirements mailed 05 February 2001.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Harrington & Smith LLP
4 Research Drive
Shelton CT 06484-6212

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OFFICE OF PETITIONS

In re
Salonaho et al.
Application No. 09/622,468
Filing Date: March 19, 2001
(IA date 1999)
Attorney
Docket:876A.0010.U1(US)

RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This decision is in response to Applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT timely[1] filed on October 11, 2005 requesting that the Office reconsider the PTA determination in view of the delays not attributable to applicant.[2] The Office thanks applicants for their good faith and candor in bringing any alleged errors that favor applicants to the attention of the Office.

Applicants request for PTA reconsideration is **DISMISSED.**

Applicants do not assert any reasons why the determination of Zero (0) days of applicants delay is not accurate. Applicant submitted a list of entry dates for responses by both applicant and the Office bur do not make any assertions as to why such would warrant more PTA.

Applicants' submission is not persuasive because this application is not eligible for PTA. Accordingly, the grounds of Office delay and applicant delay enumerated in 37 CFR 1.702-1.705 are not applicable to this application. Rather, the only grounds in which the applicants may receive administrative delay are enumerated in 37 CFR 1.701.[3] This application is not eligible for PTA because the international filing date of the application was filed prior to May 29, 2000.[4]

[1] Request for reconsideration of PTA was filed prior to/or with payment of the issue fee.
[2] The Office is unsure what applicants are asserting but the Office is construing this letter as a good faith and candor letter informing the Office of delays that were not assessed against applicant for failure to engage in reasonable efforts to prosecute the application under 37 CFR 1.704(b) or (c).
[3] Under PTE, applications filed between June 8, 1995 and May 28, 2000, applicants not assessed any reductions against patent term but the grounds in which applicants may receive additional term are limited .
[4] International filing date of this application is February 9, 1999.

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the application into a patent.

The Office thanks applicants for their good faith and candor in bring any alleged discrepancies in the favor of applicants to the attention of the Office. Accordingly, the Office will not assess the required $200.00 petition fee.

Any questions relating to this decision should be directed to Kery A. Fries, Office of Patent Legal Administation, at 571-272-7757.

Kery Fries

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

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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. None

KAREN A. LOWNEY, ESQ.
ESTEE LAUDER COMPANIES
125 PINELAWN ROAD
MELVILLE NY 11747

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MAR 1 8 2005
OFFICE OF PETITIONS

In re Application of
Rachel J. Painter et al.
Application No. 09/622,510
Filed: October 19, 2000
Attorney Docket Number: 2870/319
Title: GEL-BASED COSMETIC COMPOSITION

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(b) AS MOOT

This is a decision on the petition filed January 20, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A non-final Office action was mailed June 30, 2004, which set a shortened statutory period for reply of three (3) months. January 20, 2004, the instant petition was received, along with a response, a petition for a three-month extension of time, and an authorization to charge any fees which may be required.

Extensions of time are still available.

As such, the instant petition is hereby **DISMISSED AS MOOT**, as the instant application is not abandoned.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A four-month extension of time has been charged to Petitioner's Deposit Account, to make timely this response. The petition fee has not been charged.

After the mailing of this decision, the application will be forwarded to Technology Center 1600 for further processing of the remarks filed concurrently with this petition.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

KAREN A. LOWNEY, ESQ.
ESTEE LAUDER COMPANIES
125 PINELAWN ROAD
MELVILLE NY 11747

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APR 21 2005

OFFICE OF PETITIONS

In re Application of
Rachel J. Painter et al.
Application No. 09/622,510
Filed: October 19, 2000
Attorney Docket Number: 2870/319
Title: GEL-BASED COSMETIC COMPOSITION

CORRECTED DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a corrected decision on the petition filed January 20, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 30, 2004, which set a shortened statutory period for reply of three (3) 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 October 1, 2004.

On March 18, 2005, a decision was mailed which charged a four-month extension of time to Petitioner's Deposit Account and indicated that the present application did not go abandoned. That decision is hereby **VACATED**.

With the petition, Petitioner submitted the petition fee, a request for reconsideration, 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**.

---

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.

The previously charged four-month extension of time will be refunded to Petitioner's Deposit Account, as authorized in the petition.

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

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

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OFFICE OF PETITIONS

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

In re Application of
Pita Witehira et al
Application No. 09/622,535
Filed: November 22, 2000
Attorney Docket No. 08059.002

ON PETITION

This is a decision on the petition, filed February 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 July 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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WASHINGTON, D.C. 20231
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OCT 30 2002

OFFICE OF DIRECTOR
GROUP

Finnegan, Henderson, Farabow, Garrett & Dunner
1300 I Street, N.W.
Washington, D.C. 20005

In re Application of: :
Witehira *et al.* :
Application No. 09/622,535 :
Filed: November 22, 2000 :
Fro: Multi-layer Display and a Method for :
Displaying Images on Such a Display :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 1, 2002, to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P.§ 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by:

(a) the required petition fee set forth in 37 C.F.R. § 1.17(h),
(b) a statement that all claims are directed a single invention or in the event that the United States Patent and Trademark Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse as a prerequisite to the grant of special status,
(c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass,
(d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and
(e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition includes a showing that complies with the above requirements to permit the application to be made special under the accelerated examination procedure.

Accordingly, the petition is **granted**.

The application is being forwarded to the examiner for accelerated examination in accordance with the M.P.E.P. § 708.01.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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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Director's Office
Office of Patent Publication

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

In re Application of	:	
Pita Witehira, et al.	:	
Application No. 09/622,535	:	**DECISION ON PETITION**
Filed: November 22, 2000	:	
Attorney Docket No. 08059.002-00000	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on September 24, 2003, supplemented by the communication received December 16, 2003.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file formal drawings as required in the Notice of Allowability, mailed April 21, 2003.

Petitioner has submitted a copy of the Submission Of Formal Drawings with seven (7) sheets of drawings, and a copy of the returned postcard, which acknowledges receipt of the afore-mentioned items on June 10, 2003, as evidenced by the "Office Date" stamp receipt thereon. The formal drawings, acknowledged as having been received on June 10, 2003, are not of record in the application file and cannot be located. However, MPEP 503 states the following:

> 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 items listed thereon on the date stamped thereon by the PTO.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

Since, the original drawings cannot be located, the drawings supplied with the instant petition will be used in place thereof.

The application will be forwarded to the Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas Hawkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6276745
Issue Date: August 21,2001
Application No. 09622551
Filed: August 18,2000
Attorney Docket No. K0001T

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

This is a decision on the electronic petition, filed June 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,276,745	2001-08-21	09/622,551	2000-08-18	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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	//Frederick Thomas Wilson//	Date (YYYY-MM-DD)	2010-06-17
Name	Frederick Thomas Wilson		
Enter Reel and Frame Number		Remove	
Reel Number	015732	Frame Number	0554
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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APR 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
Bo Olsson, et al.
Application No. 09/622,593
Filed: October 23, 2000
For: **PROCEDURE TO TRANSMIT INFORMATION AT TELEPHONE ANSWERING SERVICE**

Decision on Petition

This is a decision on the petition filed March 14, 2005, pursuant to 37 C.F.R. §1.181.

The March 14, 2005 petition request that the Information Disclosure Statement (IDS), filed on November 6, 2000, be considered and acknowledged.

The petition is **Dismissed as Moot**.

In a communication from the examiner on February 24, 2005, the examiner provided an initialed copy of the form 1449 which lists the references provided on November 6, 2000.

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
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WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Reizo Maeda et al	:	
Application No. 09/622,615	:	ON PETITION
Filed: August 18, 2000	:	
Attorney Docket No. 000774	:	

This is a decision on the petition, filed October 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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) 272-3208.

The examiner of Technology Center AU 1745 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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211 NORTH BROADWAY, SUITE 3600
ST. LOUIS, MO 63102

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FEB 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephen James Williams et al :
Application No. 09/622,650 :
Filed: January 18, 2001 :
Attorney Docket No. C36510/10472 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 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 January 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 above-identified application became abandoned on May 1, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted on August 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being forwarded to Technology Center AU 3727 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

PEHR JANSSON, ATTORNEY AT LAW
7628 PARKVIEW CIRCLE
AUSTIN, TX 78731

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Fabien Thiriet	:	
Application No. 09/622,657	:	DECISION GRANTING PETITION
Filed: October 16, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 76.0748.US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), the $790 fee therefor, and a submission as required by 37 CFR 1.114; (2) the petition fee of $1,370; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 2, 2003, is accepted as having been unintentionally delayed.

The power of attorney filed on June 21, 2004 is not acceptable and will not be entered since compliance with 37 CFR 3.73(b) has not been established. Nevertheless, since Mr. Pojunas is an attorney of record, the address of record has been changed to Customer Number 41754.

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

This matter is being referred to Technology Center AU 2876 for processing the RCE filed November 8, 2004 and for consideration of the submission under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Herve Andrean et al	:	
Application No. 09/622,665	:	ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. 06028 0016	:	

This is a decision on the petition, filed April 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1751 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Application of	:
Andrean et al.	:
U.S. Patent No. 7,204,857	: Decision on Petition for
Application No. 09/622,665	: Patent Term Adjustment
International Filing Date: December 22, 1999	:
Attorney Docket No. LAUR : GUTT	:
For: Dyeing Method Using a Specific Active	:
Methylene Compound and a Compound	:
Selected Among a Specific Aldehyde, a	:
Specific Ketone, a Quinone and a Di-Imino	:
Isoindoline or 3-Amino-Isoindolone Derivative	:

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Application for Patent Term Adjustment – Post Grant," received on May 15, 2007. In the alternative, the petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181. See 35 U.S.C. § 154(b)[1] and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that Notice of Allowance mailed was mailed on June 2, 2006, for the above-identified application. Petitioner states that the issue fee was paid on September 5, 2006 and that the patent issue date was April 17, 2007. Petitioner asserts that the patent did not contain an indication of paten term adjustment. Petitioner asserts that patent improperly stated that the Patent Term Extension is 0 days. Petitioner asserts that that the application is entitled to patent term adjustment of 101 days under 35 U.S.C. § 154(b)(1)(B) for failure to issue the patent within four (4) months from the issue fee payment.

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b) (as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on December 22, 1999, as the international filing date is the filing date of the application and October 20, 2000, is the date of national stage entry and completion of 35 U.S.C. 371(c)(1), (c)(2) an d(c)(4) requirements. See MPEP 1893.03(b) and Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495. Accordingly the application is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000, thus the petition under 37 CFR 1.705 is dismissed.

In the alternative, the application has been reviewed for patent term extension pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995. The application is not entitled to patent term extension under 37 CFR 1.701, as there was not a successful appeal, interference or a secrecy order. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154. The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The required $200 fee for the request under 37 CFR 1.705(b) has been paid.

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

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

13 SEP 2002

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Marshall, O'Toole, Gerstein,
Murray & Borun
233 South Wacker Drive, Suite 6300
Chicago, IL 60606-6402

In re Application of	:	
Weinberg et al.	:	
Application No.: 09/622,816	:	
Int. App. No.: PCT/US99/03805	:	DECISION
Int. Filing Date: 22 February 1999	:	
Priority Date: 24 February 1998	:	
Atty. Docket No.: 27611 35364	:	
For: Lipid Emulsions In The Treatment	:	
Of Systemic Poisoning	:	

This decision is in response to the "Response To Notification Of Missing Requirements... And Request To Rescind Notification Of Abandonment" filed on 17 July 2001.

BACKGROUND

This international application was filed on 22 February 1999, and claimed priority of an earlier application filed on 24 February 1998. The United States was designated. A Demand electing the United States was filed on 13 September 1999, which was prior to the elapse of 19 months from the priority date. Accordingly, the period to pay the basic national fee in the United States expired on 24 August 2000.

On 23 August 2000, applicants filed, *inter alia*, the basic national fee.

On 18 September 2000, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that this application was entitled to a date of 23 August 2000 under 35 U.S.C. 371 and 102(e).

On 02 May 2001, a Communication was mailed, vacating the Notification of Acceptance (Form PCT/DO/EO/903) of 18 September 2000.

On 09 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventors was mailed to applicants.

On 04 June 2001, a Notification of Abandonment was mailed to applicants, indicating that the international application had become abandoned with respect to the United States because "Applicant has failed to respond to the Missing Requirements (Form PCT/DO/EO/905), mailed 18 Sept 2000 within the time period set therein."

Applicants filed the instant "Response... on 17 July 2001, which requests that the holding of abandonment be withdrawn and which was accompanied by, *inter alia*, a declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the record reveals that applicants timely filed the instant "Response to Notification of Missing Requirements" within the period to respond to the Form PCT/DO/EO/905 mailed on 09 May 2001, extended pursuant to 37 CFR 1.136(a). As such, the Notification of Abandonment mailed on 04 June 2001 was improper and is hereby **VACATED**.

A review of the declaration reveals that it is in compliance with 37 CFR 1.497(a) and (b). As such, it satisfies the requirements of 35 U.S.C. 371(c)(4) as well as the requirement of the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 May 2001.

DECISION

Applicants' request is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The date of this application under 35 U.S.C. 371 is **17 July 2001**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Crowell & Moring
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

Paper No. 18

In re application of
Manfred Elzenbeck
Application No. 09/622,830
Filed: March 20, 2001
For: BEDSTEAD

DECISION ON PETITION
TO RESET A PERIOD
FOR REPLY

This is in reply to the Petition to Reset a Period for Reply Due to Late Receipt of an Office action, received in the Patent and Trademark Office on March 19, 2003.

The petition is **DISMISSED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

The showings outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been delayed after receipt rather than a conclusion that the Office action was delayed in the mail or in the Office.

A review of the file record reveals that a final Office action was mailed to the address of record on January 6, 2003. The petition alleges that that Office action was not received in the office of the attorney until on or about February 20, 2003. The petition also provides a copy of the front and back side of the first sheet of the Office action which contains the mailing receipt date.

The petition lacks the evidence required in Items (A) and (C)(1), above. Specifically, the applicant indicates receipt of the Office communication on February 20, 2003 and thus the 2 week window expired on March 6, 2003.

With regards to Item (C) (1), a further review of the file record reveals that the correspondence address listed in the original declaration was to Evenson, McKeown, Edwards and Lenahan at 1200 G Street, N.W., Suite 700, Washington, DC 20005. This was the correspondence address of record. A change of correspondence address was filed on February 12, 2003 which directed further communications from the Office to be sent to Crowell & Moring, LLP at Intellectual Property Group, P.O. Box 1430, Washington, DC 20044-4300. Because the change in correspondence address was not filed with the Office prior to the January 6, 2003 communication, the Final Office action sent to the applicant from the Office was properly sent to the address of record; the 1200 G Street, N.W. address.

It is further noticed that the correspondence address on the copy of the first sheet of the Office action submitted as evidence is to Crowell & Moring, LLP at P.O. 1430, Washington, D.C. 20044-4300. However, the file copy of Office action indicates that it was sent to the firm of Evenson, McKeown, Edwards and Lenahan at the 1200 G Street address. A review of the request to change the correspondence address, filed February 12, 2003, reveals that all future communications from the Office be sent to the firm of Crowell & Moring, LLP at the P.O. Box 1430 address. The request was not a change of address for the firm of Evenson, McKeown, Edwards and Lenahan.

While MPEP 710.06 does give an applicant the ability to petition to show that a communication from the Patent Office was received late, this is predicated on the fact that the attorney was at the correspondence address to receive the communication. It appears that the Office action mailed January 6, 2003 did arrive at 1200 G Street address. But then it was forwarded by someone at this address, as noted by the change in the correspondence address on the copy of the first sheet of the Office action submitted as evidence.

The time period for response to the Final Rejection of January 6, 2003 continues to run 3 months from that date. The application is being returned to the Central Files holding area of TC 3600 to await applicant's response to that Office action.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SNM/tpl: 4/9/03

16 MAY 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Bruce H. Bernstein
GREENBLUM & BERNSTEIN
1941 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
AHN, Jae Yeon	:	
U.S. Application No.: 09/622,904	:	DECISION ON PETITION
PCT No.: PCT/KR99/00100	:	UNDER 37 CFR 1.181
International Filing Date: 04 March 1999	:	
Priority Date: 05 March 1998	:	
Attorney's Docket No.: P19945.A04	:	
For: THEFT PREVENTION DEVICE FOR	:	
INFORMATION-STORED DISK	:	

This decision is issued in response to applicant's "Request For Withdrawal Of The Holding Of Abandonment" filed on 21 September 2001. No petition fee is required.

BACKGROUND

On 04 March 1999, applicant filed international application PCT/KR99/00100 which claimed a priority date of 05 March 1998 and which designated the United States. On 10 September 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 27 September 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., 05 September 2000.

On 05 September 2000, applicant 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 and a translation of the international application into English.

On 18 October 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 12 September 2001, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 21 September 2001, applicant filed the "Request For Withdrawal Of The Holding Of Abandonment" considered herein as a petition under 37 CFR 1.181. The petition asserts that, on 23 October 2000, applicant filed a timely response to the Notification of Missing Requirements that included an executed declaration and the required surcharge. Among the materials attached to the present petition is a copy of the previously filed declaration and a copy of a return postcard that specifically identifies the present application, itemizes the declaration and surcharge payment, and bears a PCT/PTO receipt stamp dated 23 October 2000.

DISCUSSION

Based on applicant's statements, the stamped return postcard, and internal USPTO records which confirm receipt of the $65 small entity surcharge payment on 23 October 2000, it is concluded that the response to the Notification Of Missing Requirements attached to the present petition, including the executed declaration and the surcharge payment, were originally filed on 23 October 2000 as a timely response to the Notification Of Missing Requirements mailed 18 October 2000. Accordingly, the Notification Of Abandonment mailed on 12 September 2001, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

A review of the declaration filed on 23 October 2000 reveals that it is in compliance with 37 CFR 1.497.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed on 12 September 2001 is hereby **VACATED**.

The executed declaration attached to the present petition and the surcharge payment are treated as having been originally filed on 23 October 2000

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 23 October 2000.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

JUL 10 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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Richard L. Mayer
KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of	:	
OHMS, Franz	:	
Application No.: 09/623,342	:	DECISION ON
PCT No.: PCT/DE98/03741	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 21 December 1998	:	
Priority Date: 05 March 1998	:	
Attorney Docket No.: 10191/1577	:	
For: SWITCHING CONTROLLER		

The is a response to the declaration filed 22 March 2001 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 21 December 1998, applicant filed international application no. PCT/DE98/03741 which claimed a priority date of 05 March 1998 and designated the United States. On 28 September 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 on 05 September 2000.

On 31 August 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and an international search report.

On 22 September 2000, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

On 22 March 2001, applicant filed "Response to Missing Requirements under 35 U.S.C. 371" which was accompanied by, among other items: a declaration and power of attorney executed by Gabriele Ohms on behalf of deceased inventor, Franz Ohms and a translation of the international application.

DISCUSSION

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.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 22 March 2001 was executed by Gabriele Ohms on behalf of deceased inventor Franz Ohms. However, the declaration does not state that the relationship of Gabriele Ohms to the deceased inventor. Absent a statement that the signing heir is the sole heir or legal representative (executor) of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42. See also 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. 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 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" 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.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

16 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Richard L. Mayer
KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of	:	
OHMS, Franz	:	
Application No.: 09/623,342	:	DECISION ON PETITION
PCT No.: PCT/DE98/03741	:	
Int. Filing Date: 21 December 1998	:	
Priority Date: 05 March 1998	:	
Attorney Docket No.: 10191/1577	:	
For: SWITCHING CONTROLLER		

This decision is in response to the "Renewed Submission under 37 CFR 1.42" and "Petition to Revive under 37 CFR 1.137(b)" filed 16 December 2002.

BACKGROUND

On 21 December 1998, applicant filed international application no. PCT/DE98/03741 which claimed a priority date of 05 March 1998 and designated the United States. On 28 September 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 on 05 September 2000.

On 31 August 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and an international search report.

On 22 September 2000, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

On 22 March 2001, applicant filed "Response to Missing Requirements under 35 U.S.C. 371" which was accompanied by, among other items: a declaration and power of attorney executed by Gabriele Ohms on behalf of deceased inventor, Franz Ohms and a translation of the international application.

In a decision dated 16 July 2001, applicant's request filed 22 March 2001 was dismissed because the declaration was defective under 37 CFR 497(b)(2).

On 16 February 2002, the above identified application was abandoned for failure to file a complete response to the "Decision on Papers under 37 CFR 1.42" mailed 16 July 2001 within the time period set therein.

On 16 December 2002, applicant filed the present petition under 37 CFR 1.42 and 37 CFR 1.137(b).

DISCUSSION

A. Renewed Petition under 37 CFR 1.42

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 16 December 2002 is executed by Gabriele Ohms as the "sole heir" of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

B. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the declaration in compliance with 37 CFR 1.42 filed on 16 December 2002.

As to Item (2), the appropriate petition fee of $1280.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

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

The application has an international filing date of 21 December 1998, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **16 December 2002**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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Commissioner for Patents
United States Patent and Trademark Office
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Orum & Roth
53 West Jackson Boulevard
Chicago, IL 60604-3606

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MAY 12 2008

In re Application of	:	
Bjorn Heed	:	
Application No. 09/623,373	:	DECISION ON PETITION
Filed: August 30, 2000	:	TO WITHFRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed July 16, 2006.

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

A review of the file record indicates that the power of attorney to Orum & Roth. has been revoked by the applicant of the patent application on August 25, 2006. Accordingly, the request to withdraw under 37 CFR 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 inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK, N.Y. 10177

In re Application of :
Jeffery Steinhauer :
Application No. 09/623,401 :
Filed: October 30, 2000 :
For: EXPANED COLOR SPACE :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on March 11, 2005.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All attorney/agents listed in the withdrawal have been withdrawn.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: HEWLETT PACKARD COMPANY
P.O. BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

AUG 2 8 2001

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Washington, D.C. 20231
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THOMSON MULTIMEDIA LICENSING
PO Box 5312
Princeton, NJ 08543 0028

In re Application of: ERBAR, Maximillian, et al. U.S. Application No.: 09/623,404 PCT No.: PCT/EP99/01340 International Filing Date: 02 March 1999 Priority Date: 13 March 1998 Attorney's Docket No.: RCA 90333 For: METHOD FOR FINDING AN INTERNET OR E-MAIL ADDRESS	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 18 June 2001 in the above-captioned application is hereby **GRANTED** as follows:

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," coupled with the explanation provided in the "Statement In Response To Unintentionally Abandoned Application," meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted a proper response to the Notification Of Missing Requirements mailed 24 October 2000, that is, an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration after the thirty month deadline, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371(c) date is **18 June 2001.**

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

Ex: S. Baum

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/6/06

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/623514 Patent No.: 7015373

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: _____

SPE

1638
Art Unit

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Bacon & Thomas
4th Floor
625 Slaters Lane
Alexandria, VA 22314-1176

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of

Kim, et al. :

Application No. 09/623,516

: DECISION ON PETITION

Filed: October 4, 2000

:

Attorney Docket No. REF/KIM/174

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was filed within the allowable period. The application became abandoned on September 24, 2004. A Notice of Abandonment was mailed on February 4, 2005.

Examiner Aaron Carter has determined that the amendment filed March 5, 2007, places the application in condition for allowance.

The application is being forwarded to Technology Center 2600, GAU 2625 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 03 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:	
BRIDON, Dominique P. et al.	:	
Application No. 09/623,533	:	DECISION ON PETITION
Filed: September 05, 2000	:	TO WITHDRAW
Attorney Docket No. **REDC-1510USA**	:	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 03, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON PC**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

03 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James R. Ray
James R. Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

In re Application of	:	
KUHMONEN, Mauri	:	
Application No.: 09/623,542	:	
PCT No.: PCT/AU99/00135	:	DECISION ON PETITION
Int. Filing Date: 05 March 1999	:	
Priority Date: 05 March 1998	:	
Attorney Docket No.: GH-00322	:	
For: SCREENING APPARATUS	:	

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 23 April 2002, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 05 March 1999, applicants filed international application PCT/AU99/00135 which claimed a priority date of 05 March 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 September 1999. A Demand for preliminary examination was filed prior to the expiration of the 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 05 September 2000

On 05 September 2000, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $860 and an English translation of the international application.

On 12 October 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e) U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was not in compliance with 37 CFR 1.66 or 37 CFR 1.68. The notification was mailed to an address that was not the correspondence address listed on the Transmittal Letter filed 05 September 2000.

On 30 May 2001, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the notification of Missing Requirements mailed 12 October 2000 within the time period set therein.

On 23 April 2002, applicant filed the present Petition to Withdraw Holding of Abandonment.

DISCUSSION

Applicant states in their present petition, "to date we have not received the Notification of Missing Requirements or any other communication from the Patent Office, i.e., a Filing Receipt." Since the Notification of Missing Requirements was mailed to address that was not listed on the Transmittal Letter, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 12 October 2001 is hereby vacated. Further, the Notification of Abandonment dated 30 May 2001 is withdrawn.

Additionally, applicant states, "enclosed is a copy of a report from our Docketing System showing the activity on the above-references patent application, i.e., the filing of the case in the U.S. Patent Office, receipt of the Postcard and receipt of executed Declaration and Assignment from Applicant." As stated in the Manual of Patent Examining Procedure, Section 503, the best evidence of what was actually received by the Office on a particular date is a copy of returned date stamped postcard receipt that was filed with papers in question and contains a specific itemization of all items being submitted. In the present instance, applicant has not provided any evidence, such as a date stamped return receipt post card, that evidences receipt by the Office of the original declaration. Additionally, a review of the application file reveals that the declaration allegedly filed is not located therein. A review of the application file reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed.

CONCLUSION

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

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for mailing a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that the oath or declaration requirement of 35 U.S.C. 371(c)(4) has not been satisfied.

The correspondence address currently listed in the PALM database is: James R. Ray & Associates, 2640 Pitcairn Road, Monroeville, PA.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

26 OCT 2004

#11

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Stephen O. Burr
Kevin C. Brown
Burr & Brown
P.O. Box 7068
Syracuse, New York 13261-7068

In re Application of	:	
KUHMONEN, Mauri	:	
Application No.: 09/623,542	:	
PCT No.: PCT/AU99/00135	:	DECISION ON PETITION
Int. Filing Date: 05 March 1999	:	
Priority Date: 05 March 1998	:	
Attorney Docket No.: GH-00322	:	
For: SCREENING APPARATUS	:	

This decision is in response to applicant's "Petition to Withdraw Any Holding of Abandonment, Request for Acknowledgment of Pending Status and Contingent Petition to Revive Abandoned Application" filed on 08 September 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 05 March 1999, applicants filed international application PCT/AU99/00135 which claimed a priority date of 05 March 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 September 1999. A Demand for preliminary examination was filed prior to the expiration of the 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 05 September 2000.

On 05 September 2000, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $860 and an English translation of the international application.

On 12 October 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e) U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was not in compliance with 37 CFR 1.66 or 37 CFR 1.68. The notification was mailed to an address that was not the correspondence address listed on the Transmittal Letter filed 05 September 2000.

On 30 May 2001, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application

was abandoned for failure to respond to the notification of Missing Requirements mailed 12 October 2000 within the time period set therein.

On 23 April 2002, applicant filed Petition to Withdraw Holding of Abandonment which was granted in a "Decision on Petition" dated 04 June 2002.

On 27 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the "nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reasons: A copy of the 'Sequence Listing' in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached CRF Diskette Report." Additionally, the United States Designated/Elected Office (DO/EO/US) mailed "Withdrawal of Previously Sent Notice" which indicated that "the Notice mailed on 5/29/01 was sent in error."

On 08 July 2002, applicant filed an executed declaration.

On 09 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 08 July 2002.

On 08 September 2004, applicant filed "Petition to Withdraw Any Holding of Abandonment, Request for Acknowledgment of Pending Status and Contingent Petition to Revive Abandoned Application."

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 27 June 2002 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1. 1.821- 825. A review of the application reveals that the instant application does not contain any nucleotide or amino acid sequences and no sequence listing is required. Therefore, there is no need to file a sequence listing for the present application and the Notification of Defective Response (Form PCT/DO/EO/916) mailed 27 June 2002 is hereby vacated.

A review of the application file reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have been completed.

CONCLUSION

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

Application no.: 09/623,542

The Notification of Defective Response (Form PCT/DO/EO/916) is **VACATED**.

The application has an international filing date of 05 March 1999 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **08 July 2002**.

The present application will be forwarded to Art Unit 3653 for examination in due course.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

30 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEARNE & GORDON
526 Superior Avenue, East
Suite 1200
Cleveland, Ohio 44114-1484

In re Application of:	:	
GUYOT, Jean-Luc, et al.	:	DECISION ON PETITION
Application No.: 09/623,604	:	
PCT No.: PCT/FR99/00492	:	
Int. Filing Date: 05 March 1999	:	
Priority Date: 05 March 1998	:	
Attorney Docket No.: 32910	:	
For: DEVICE FOR INSPECTING, SAMPLING, OR EXTRACTING AT A PRECISE SPOT BENEATH A SLAB	:	

This decision is issued in response to applicants' "Letter Requesting Corrected Filing Receipt" filed by facsimile on 11 March 2003 and applicants' 16 January 2002 submission, treated herein as a petition under 37 CFR 1.181 to confirm the filing of the inventor's declaration on 25 September 2000. No petition fee is required.

BACKGROUND

On 05 March 1999, applicants filed international application PCT/FR99/00492 which claimed a priority date of 05 March 1998 and which designated the United States. On 10 September 1999, a copy of the international application was communicated to the USPTO by the International Bureau (IB).

On 13 September 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., 05 September 2000.

On 01 September 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 and a translation of the international application into English.

On 19 October 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 16 January 2002, applicants filed a submission which included a copy of an executed declaration. This submission, considered herein as a petition under 37 CFR 1.181, asserts that applicants filed the attached declaration and the required surcharge payment on 25 September 2000. Included with the petition is a copy of a return postcard which itemizes the declaration and surcharge payment, identifies the present application, and bears a USPTO receipt stamp dated 25 September 2000.

On 07 February 2002, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 16 January 2002 as the 35 U.S.C. 371 date. A filing receipt was also issued by the USPTO which identified 16 January 2002 as the filing date for this application.

On 11 March 2003, applicants filed the facsimile transmission considered herein (the submission asserts that the included "Letter Requesting Corrected Filing Receipt" was originally filed on 17 June 2002). This submission seeks correction of the filing receipt to indicate a filing date of 25 September 2000, the date on which applicant asserts that the declaration completing the 35 U.S.C. 371 requirements was originally filed.

DISCUSSION

Based on applicants' statements, the stamped return postcard, and USPTO records that indicate receipt of the $130 surcharge payment on 25 September 2000, it is concluded that the declaration and surcharge filed to complete the 35 U.S.C. 371 requirements were filed on 25 September 2000.

The proper 35 U.S.C. 371 date for this application is therefore 25 September 2000. The Notification Of Acceptance mailed 07 February 2002, which incorrectly identified 16 January 2002 as the 35 U.S.C. 371 date, is therefore appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 and request for a corrected filing receipt are **GRANTED**.

The Notification Of Acceptance mailed 07 February 2002, and the subsequently mailed filing receipt, are hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance identifying 25 September 2000 as the 35 U.S.C. 371 date and the issuance of a corrected filing receipt identifying 25 September 2000 as the filing date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/6/2008

TO SPE OF : ART UNIT 1600 (1644)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,166,697

Attn: Ilia Ouspenski

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to enter changes to fig 9 as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: ____The change is to Figure 4, sheet 9. I.O.

SPE Art Eileen B. O'Hara
Supervisory Patent Examiner 1644

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APR 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of
Herbert Heiss, et al.
Application No. 09/623,775
Filed: September 8, 2000
For: **METHOD FOR REMOVING ATM CELLS FROM AN ATM COMMUNICATIONS DEVICE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment which is treated as pursuant to 37 CFR §1.181(a), filed February 9, 2005. No fee is required.

This application became abandoned to failure to timely and appropriately respond to the final Office action mailed June 30, 2004. A Notice of Abandonment has not yet bee mailed.

Petitioner has alleged non-receipt of the final Office action. In the petition, the petitioner has provided a statement they reviewed the file record and that the final Office action was not received by the petitioner. Moreover, petitioner has provided a copy of a docket record where the non-received Office action would have been entered had it been received and docketed.

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. [emphasis added]

Petitioner satisfies the requirements set forth above, if taken in light of 37 C.F.R. §1.34.

Office records reveal that a change of address was filed on December 26, 2002, changing the correspondence address for the subject application to the above listed address. However, no further power of attorney and/or revocation of power of attorney was subsequently filed.

37 C.F.R. § 1.34 Recognition for representation, states in part:...

> (a) When a registered attorney or agent acting in a representative capacity, pursuant to § 1.31, appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered attorney or agent should specify his or her registration number with his or her signature. Further proof of authority to act in a representative capacity may be required. [emphasis added]

Petitioner provided their registration number and indicated that they are at the correspondence address of record and as indicated on the petition. Accordingly, petitioner's statement will be accepted. The petition goes on to provide a declaration from a Janine Goodwin, senior docketing specialist. However, said declaration does not provide any further evidence regarding power of attorney.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of the final Office action mailed June 30, 2004. 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

FEB 0 9 2001

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CONRAD J. CLARK
CLARK & BRODY
1750 K STREET, NW SUITE 600
WASHINGTON, DC 20006

In re Application of	:
JOHN B. WELLS (deceased)	:
Application No.: 09/623,793	:
PCT No.: PCT/US99/05287	: DECISION ON
Int. Filing Date: 11 March 1999	:
Priority Date: 11 March 1998	: 37 CFR 1.42 PAPERS
Attorney Docket no.: 70869-0068US	:
For: APPARATUS FOR THE STERILE	:
TRANSFER OF FLUIDS	:

This is a decision on the submission under 37 CFR 1.42 filed in the Patent and Trademark Office (PTO) on 08 September 2000 along with the request for entry into the U.S. national stage.

BACKGROUND

On 08 September 2000, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, a copy of the international application and an executed declaration.

In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicant filed a declaration that was signed by inventors Wesley H. Verkaart and Lou Blasetti and by Lin A. Jakary as legal representative for inventor John B. Wells (deceased). The submission has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and the citizenship, residency and mailing address of the heir(s)/legal representative.

While the declaration submitted on 08 September 2000 identifies each inventor, it does not state the country of citizenship, former residency and mailing address of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3) and thus, is unacceptable. See 37 CFR 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED WITHOUT PREJUDICE**.

If reconsideration of the merits of the request for status under 37 CFR 1.42 is desired, applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision. 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 1.42."

Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Request Under 37 CFR 1.42" 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.

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PCT Legal Office

Cynthia M. Kratz
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JAN 0 9 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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CONRAD J. CLARK
CLARK & BRODY
1750 K STREET, NW SUITE 600
WASHINGTON, DC 20006

In re Application of	:	
JOHN B. WELLS (deceased)	:	DECISION ON
Application No.: 09/623,793	:	
PCT No.: PCT/US99/05287	:	PETITIONS TO CORRECT
Int. Filing Date: 11 March 1999	:	
Priority Date: 11 March 1998	:	INVENTORSHIP AND
Attorney Docket no.: 70869-0068US	:	
For: APPARATUS FOR THE STERILE	:	UNDER 37 CFR 1.42
TRANSFER OF FLUIDS	:	

This is a decision on a Petition to Correct Inventorship and a submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 10 September 2001.

BACKGROUND

On 08 September 2000, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, a copy of the international application and an executed declaration. In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicant filed a declaration that was signed by inventors Wesley H. Verkaart and Lou Blasetti and by Lin A. Jakary as legal representative for inventor John B. Wells (deceased). The submission was treated as a request for status under 37 CFR 1.42.

On 09 February 2001, a decision was mailed to applicants indicating that the declaration was unacceptable because it did not state the country of citizenship, former residency and mailing address of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3).

On 10 September 2001, applicants filed the instant petition to correct inventorship to include Steven Gann and submitted a new declaration signed by all inventors including their

residence, citizenship and post office address and by the legal representative of deceased inventor, John B. Wells.

DISCUSSION

Renewed Petition under 37 CFR 1.42

Pursuant to 37 CFR § 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and the citizenship, residency and mailing address of the heir(s)/legal representative.

The declaration submitted on 10 September 2000 identifies each inventor and states the country of citizenship, former residency and mailing address of the deceased inventor and that of the legal representative as required for compliance with 37 CFR 1.497(a)(3) and thus, is acceptable. See 37 CFR 1.64. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

Petition to Correct Inventorship

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor . . .

that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(I); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants included a declaration by Steven Gann stating that the error in "not being originally named as an inventor in the above-identified patent application occurred without deceptive intent"on his part. This declaration is signed by Mr. Gann and satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid. Item (2) above is also satisfied.

Applicants also included a "Consent of Assignee" document signed by Mr. Gary D. Tureski, President of Harvest Technologies Corporation, who states that the assignee "hereby consents to the addition of Steven Gann as an inventor." This document satisfies item (3) above.

Accordingly, applicants have met all of the requirements to add Mr. Gann as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Mr. Gann as co-inventor is hereby **GRANTED**.

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 10 September 2001.

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Cynthia M. Kratz
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23 SEP 2004

#9

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SMITH, GAMBRELL & RUSSELL, LLP
The Beveridge, DeGrandi, Weilacher & Young
Intellectual Property Group
1850 M Street, NW- Suite 800
Washington, DC 20036

In re Application of	:	RECONSTRUCTION OF
PLEE, Dominique	:	
Application No.: 09/623,801	:	
PCT No.: PCT/FR99/00497	:	
Int. Filing Date: 4 March 1999	:	APPLICATION UNDER
Priority Date: 9 March 1998	:	
Attorney Docket No.: 33808F111	:	
For: DECARBONATING GAS STREAMS USING	:	
ZEOLITE ADSORBENTS	:	UNDER 37 CFR 1.251

This decision is in response to applicant's "LETTER ACCOMPANYING COPY OF APPLICANT'S FILE TO REPLACE U.S. PATENT OFFICE FILE" filed with the United States Patent and Trademark Office on 13 August 2002 forwarding copies of application papers for the purpose of reconstructing the above captioned application. No petition fee is due.

BACKGROUND

On 4 March 1999, applicant filed international application PCT/FR99/00497 claiming a priority date of 09 March 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 September 1999, prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 September 2000.

On 08 September 2000, applicant entered the US national phase.

On 11 December 2000, a Notification of Acceptance under 35 U.S.C. 371 (FORM PCT/DO/EO/903) was mailed. Thereafter, the application file could not be located.

On 13 August 2002, applicant submitted the instant communication enclosing copies of correspondence that applicant claims to have earlier submitted to the Office along with postcard receipts, to facilitate reconstruction of the file.

17 Nov 00

RECONSTRUCTION UNDER 1.251

Applicant has enclosed a copy of "September 8, 2000 filing of application under 35 U.S.C. §371, including each paper listed on PTO date-stamped postcard filing receipt" and a date stamped postcard receipt listing the reconstruction response, and a summary of all correspondence, copies of the correspondence. The postcard receipt lists the inventor, title and serial number and is date stamped 08 September 2000. Applicant indicates the set of papers is a copy of the 08 September 2000 submission and the statement is signed by someone registered to practice before the Office.

Under 37 CFR 1.251, when applicant is informed that the file cannot be located, applicant can proceed under one of three subsections. Applicant is proceeding under 37 CFR 1.251(a)(1). It requires that applicant furnish a copy of all correspondence, a list of such correspondence, a statement that the copy is a complete and accurate copy of all correspondence between the Office and the applicant for such application, patent or other proceeding, and state whether applicant is aware of any correspondence for such application, patent or other proceeding that is not among applicant's records.

Applicant has furnished a copy of the correspondence, a listing of the correspondence and has furnished the required statements.

DECISION

For the reasons discussed above, the Reconstruction Under 37 CFR 1.251 is **MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to resume processing as a U.S. national stage application of the international application no. PCT/FR99/00497, in accordance with this decision. It is noted that a Notification of Acceptance (Form PCT/DO/EO/903) has already been mailed. The application has been accorded a date under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) of **17 November 2000**.

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Boris Milef
PCT Legal Examiner
PCT Legal Office

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DEC 12 2001

D. Bruce Prout
Christie, Parker & Hale
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of LOB, Helke Application No.: 09/623,840 PCT No.: PCT/EP99/01585 Int. Filing Date: 11 March 1999 Priority Date: 11 March 1998 Attorney Docket No.: 40265/DBP For: MOTOR VEHICLE ACTUATING DEVICE	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's Petition to Withdraw Abandonment filed 28 September 2001 under 37 C.F.R. 1.181.

BACKGROUND

On 11 March 1999, applicant filed international application PCT/EP99/01585, which claimed a priority date of 11 March 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 September 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 11 September 2000.

On 08 September 2000, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration.

On 18 October 2000, USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 September 2001, applicant filed the instant Petition to Withdraw Abandonment, and *inter alia*, a translation of the international application, the declaration of Helke Lob, the declarations of Alexander A. Martinez and Daniel G. Ferris and a copy of the docket page for this case.

On 05 November 2001, USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating, *inter alia*, that applicant failed to respond to the Notification of Missing Requirements mailed 18 October 2000.

DISCUSSION

PETITION

If applicant can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Requirement (1) is not met. Practitioner does not state that the Office action was not received by the practitioner. The specific statement is instead made by Mr. Daniel Ferris, who is not a registered practitioner.

Requirement (2) is not met. Practitioner makes no specific statement that the file jacket and docket records were searched, resulting in an indication that the Office action was not received.

Requirement (3) is not met. Applicant provided a copy of the computer generated docket readout for the above identified application. However, this copy of the docket readout is deemed to be unacceptable. The docket records required are the docket records for the date on which the response was due (18 November 2000) showing all cases for the practitioner's law firm that had a response due on that date.

Since applicant has not satisfied items (1), (2) and (3) above, the request may not be properly granted.

DECLARATION

The declaration filed 28 September 2001 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

The application remains abandoned.

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

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Richard Cole
Legal Examiner
PCT Legal Officer

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JAN 30 2002

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Christie, Parker & Hale
P.O. Box 7068
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In re Application of	:	
LOB, Helke	:	
Application No.: 09/623,840	:	DECISION
PCT No.: PCT/EP99/01585	:	ON PETITION
Int. Filing Date: 11 March 1999	:	UNDER 37 CFR 1.181
Priority Date: 11 March 1998	:	
Attorney Docket No.: 40265/DBP	:	
For: MOTOR VEHICLE ACTUATING DEVICE	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.181 to Withdraw Abandonment" filed 21 December 2001.

BACKGROUND

On 11 March 1999, applicant filed international application PCT/EP99/01585, which claimed a priority date of 11 March 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 September 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 11 September 2000.

On 08 September 2000, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration.

On 18 October 2000, USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 September 2001, applicant filed the Petition to Withdraw Abandonment, and *inter alia*, a translation of the international application, the declaration of Helke Lob, the declarations of Alexander A. Martinez and Daniel G. Ferris and a copy of the docket page for this case.

On 05 November 2001, USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating, *inter alia*, that applicant failed to respond to the Notification of Missing Requirements mailed 18 October 2000.

On 12 December 2001, USPTO mailed a decision dismissing the 28 September 2001 petition without prejudice and setting a two month extendable time period for reply.

On 21 December 2001, applicant filed the instant "Renewed Petition Under 37 CFR 1.181 to Withdraw Abandonment," accompanied by, *inter alia*, a printout of the docket record for 28 November 2000 through 20 November 2001.

DISCUSSION

If applicant can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant has now met requirements (1), (2), and (3). As to (1), practitioner states, "Neither I nor any attorney of record in this case received the October 18, 2000 Notification of Missing Requirements until it was received by fax on September 28 [*sic*], 2001." As to (2), practitioner states, "I personally searched the file jacket and docket records and did not find the Notice of Missing Requirements dated October 18, 2000 except for the copy that was faxed on September 18, 2001, and the docket records indicate that the Notice was not received." As to (3), applicant has provided docket records for 18 November 2000 showing all cases for the practitioner's law firm that had a response due on that date.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The 35 U.S.C. §371 date of the application is **28 September 2001**.

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

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#5

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SEP 10 2001

Anthony Asquith
Anthony Asquith & Co.
173 Westvale Drive
Waterloo, Ontario
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In re Application of	:	
SUMMACH, et al.	:	
Application No.: 09/623,847	:	DECISION ON PETITION
PCT No.: PCT/CA99/00073	:	
International Filing Date: 05 February 1999	:	UNDER 37 CFR 1.181
Priority Date: 05 February 1998	:	
Attorney Docket No.: 801-49US	:	
For: MINIMUM TILL SEEDING KNIFE	:	

This decision is in response to applicant's request that the status of abandonment be withdrawn filed in the United States Patent and Trademark Office (USPTO) on 15 June 2001. The request is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 05 February 1999, applicant filed international application PCT/CA99/00073, which claimed priority of an earlier application filed 05 February 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 August 2000.

On 07 September 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a declaration executed by the inventors; an assignment document for recording and a FIRST preliminary amendment.

On 29 September 2000, applicant was mailed a Notification of Abandonment (Form PCT/DO/EO/909) for having failed to pay the basic national fee within thirty months of the priority date.

On 15 June 2001, applicant filed the present petition requesting withdrawal of the holding of abandonment on the premise that the transmittal letter was actually filed on 31 July 2000. Petitioner noted that an original request was made on 07 December 2000 and again on 22 March 2001. Accompanying applicant's request was a declaration by Karen Owen; a Federal Express tracking report; a copy of the law firm's instructions for sending papers to the USPTO; a copy of

the firm's log book for 28 July 2000 and a copy of a canceled check for $958.00.

DISCUSSION

Applicants seek revocation of the holding of abandonment mailed 29 September 2000 based on the premise that the papers were in fact filed with the USPTO on 31 July 2000, not 07 September 2000 as stamped on applicants' transmittal letter. Applicants have submitted a declaration executed by Karen Owen, counsel's office manager, in which Ms. Owen declares that the national stage papers for this application, including the check for the basic national fee, were enclosed in Federal Express label number 817390504437. Among the attachments to Ms. Owen's declaration is her contemporaneous record of the mailing, in which the present national stage papers are identified as having been included in this Federal Express package. In addition, applicants have submitted a copy of a Federal Express tracking form which shows that Federal Express label 817390504437 was signed for by a USPTO employee on 31 July 2000. Moreover, the transmittal letter itemizing the documents included in the national stage submission included the Federal Express label number 817390504437. Based on the tracking report, Ms. Owen's declaration, and the attachments thereto, it is concluded that the present national stage application, including the check for the basic national fee, was included in Federal Express label number 817390504437 and that Federal Express label number 817390504437 was received by the USPTO on 31 July 2000. Accordingly, the filing date for these papers will be corrected to 31 July 2000, the date on which Federal Express label number 817390504437 was received at the USPTO.

Because the application and the basic national fee were received on 31 July 2000, prior to the expiration of the thirty month deadline, the Notification Of Abandonment mailed on 29 September 2000, based as it was on applicants' purported failure to meet this deadline, is hereby appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 to confirm the USPTO's receipt of the present national stage application on 31 July 2000 is **GRANTED**.

The Notification Of Abandonment mailed on 29 September 2000 is hereby **VACATED**.

The application has an international filing date of 05 February 1999 under 35 U.S.C. 363 and a date of 31 July 2000 under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision, including mailing of a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

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Paper 24

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OCT 30 2003

OFFICE OF PETITIONS

In re application of
Frank I. Carroll et al.
Application No. 09/623,872
Filed: November 27, 2000
Title of Invention: NOVEL OPIATE COMPOUNDS, METHODS OF MAKING AND METHODS OF USE

: ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 17, 2003 a copy of which was filed by facsimile transmission on October 27, 2003, requesting the issuance of the Original Ribbon Copy of the Letters Patent for the above-identified application.

The petition is **DISMISSED AS MOOT.**

The Original Letters Patent for the above-identified patent were never mailed from the USPTO as indicated in the Issue Notification mailed July 18, 2002. As a result, please disregard any references to an issue date and patent number previously indicated in this matter.

A substitute Issue Notification will be mailed to the address of record in short order which will include a patent number and issue date. We apologize for any inconvenience this may have caused the applicant.

This file is being forwarded to the Publishing Division for issuance of an Issue Notification and subsequently, the Original Ribbon Copy of the Letters Patent related to application no. 09/623,872.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 28

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JAN 12 2004

OFFICE OF PETITIONS

In re Application of
Frank I. Carroll et al
Application No. 09/623,872
Filed: November 27, 2000
Attorney Docket No. 196838USOPCT

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed December 23, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

---

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

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In re Application of	:	
Karel Smuk et al.	:	
Application No. 09/623,895	:	ON PETITION
Filed: November 16, 2000	:	
Attorney Docket No. 951/49163	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 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 June 28, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 29, 2005. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE and amendment; (2) the petition fee of $1500; 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 Art Unit 2638 for appropriate action on the concurrently filed RCE and Amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
Washington, D.C. 20231
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LERNER & GREENBERG
PO Box 2480
Hollywood, Florida 33020-2480

In re Application of	:	
WERNER, Wolfgang	:	
U.S. Application No.: 09/623,924	:	DECISION ON PETITION
PCT No.: PCT/DE99/00268	:	UNDER 37 CFR 1.181
International Filing Date: 01 February 1999	:	
Priority Date: 10 March 1998	:	
Attorney's Docket No.: GR 98 P 1307	:	
For: MEASURING DEVICE WITH A	:	
MICROSENSOR AND METHOD FOR ITS	:	
PRODUCTION	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.8(b)" filed on 02 July 2001, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of a timely response to the Notification Of Missing Requirements mailed 25 October 2000. No petition fee is required.

BACKGROUND

On 01 February 1999, applicant filed international application PCT/DE99/00268 which claimed a priority date of 10 March 1998 and which designated the United States. On 16 September 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 28 September 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., 11 September 2000 (10 September 2000 was a Sunday).

On 11 September 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 25 October 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 the following were required: (1) an oath or declaration in compliance with 37 CFR 1.497; (2) the surcharge for providing the oath or declaration later than 30 months from the priority date; (3) a translation of the application into English; and (4) the processing fee for providing the

English translation later than 30 months from the priority date. The Notification also informed applicant that the failure to submit these materials within one month of the mail date of the Notification would result in abandonment of the application.

On 11 June 2001, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 02 July 2001, applicants filed the petition considered herein. The petition asserts that, on 16 November 2000, applicants mailed a timely response to the Notification of Missing Requirements that included the required English translation, executed declaration and fee payments. Among the materials attached to the present petition is a copy of the previously filed declaration and English translation, and a copy of a return postcard that specifically identifies the present application, itemizes the declaration, translation, and fee payments, and bears a USPTO receipt stamp dated 20 November 2000.

DISCUSSION

Based on applicant's statements, the stamped return postcard, and internal USPTO records which confirm receipt of the $130 surcharge and $130 processing fee payments on 20 November 2000, it is concluded that the response to the Notification Of Missing Requirements attached to the present petition, including the executed declaration, English translation, and fee payments, were originally filed on 20 November 2000 as a timely response to the Notification Of Missing Requirements mailed 25 October 2000. Accordingly, the Notification Of Abandonment mailed on 11 June 2001, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

A review of the declaration filed on 20 November 2000 reveals that it is in compliance with 37 CFR 1.497.

A review of the English translation, however, finds that the translation is incomplete in that it fails to include a translation of claim 23 from the published international application. This claim was apparently canceled by amendment during the international examination process. However, regardless of subsequent amendments, applicant is required to provide a translation into English of the entire international application as filed, including the original version of amended or canceled claims.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed on 11 June 2001 is hereby **VACATED**.

The materials attached to the present petition, including the executed declaration and the surcharge payment, are treated as having been originally filed on 20 November 2000

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of A Defective Translation.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/LS:rmr

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APR -2 2004

Paper No. 12

In re Application of
Jean-Yves Porret *et al*
Application No. 09/623,926
Filed: February 26, 2001
Attorney Docket No. P-4284

: DECISION ON PETITION

This is a decision on the petition filed on March 4, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated April 23, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $130.00 petition fee tendered with the petition will credited to Deposit Account No. 02-1666.

The petition is granted.

Petitioners allege that this application is not abandoned because a proper reply to the Office letter in question was in fact filed on July 23, 2003. Petitioners support this allegation by furnishing a copy of the reply and a copy of filing receipt for the reply showing that the reply was in fact received in the Office by facsimile transmission on July 23, 2003, a date within the period set by the Office letter in question for filing a reply. Noting that the reply was filed pursuant to 37 CFR 1.113 and 1.116, the reply has been referred to the examiner for a determination of whether the reply satisfies those regulations. The examiner reports that the reply places the application in condition for allowance. Therefore, the reply was in fact proper. Petitioners are advised that the copy of the reply that was transmitted to the Office on December 19, 2003 was received and has been attached to the petition.

Based upon the evidence furnished by petitioners, it is clear that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the Head Supervisory Applications Examiner who will refund the petition fee as discussed above, and who will endorse the amendment submitted with the petition into the application file. The application will then be forwarded to the examiner for action on the amendment filed July 23, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Adjustment date: 04/14/2004 EMILLER
03/05/2004 CNGUYEN 00000121 021666 09623936
01 FC:1460 130.00 CR

Richard J. Rodrick
Becton Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 07417

MAY 17 2002

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Patrick W. Hughey
Ipsolon LLP
805 SW Broadway #2740
Portland, OR 97205

In re Application of
BUICAN, Tudor N.
Application No. 09/623,954
PCT No.: PCT/US99/05586
Int. Filing Date: 16 March 1999
Priority Date: 16 March 1998
Attorney Docket No.: 1074-038
For: CONTROLLING RESONANT PHOTOELASTIC MODULATORS

DECISION

ON PETITION UNDER

37 CFR 1.8

This is a decision on applicant's "Submittal Under 37 CFR 1.8(b) Concerning Timely Filed Correspondence Not Received In the US Patent and Trademark Office," filed on 10 September 2001. No petition fee is required.

BACKGROUND

On 08 September 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration.

On 18 October 2000, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that oath or declaration executed by the inventor was required and a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the current oath or declaration was not executed in accordance with either 37 CFR 1.66 or 1.68. The notification set a ONE (1) MONTH period for response.

On 11 June 2001, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 18 October 2000.

On 10 September 2001, applicant filed the present petition requesting that the Office withdraw the holding of abandonment as the applicant had timely replied to the Notification of Missing Requirements. The petition was accompanied by copies of the cover letter and of the combined declaration and power of attorney alleged to have been mailed 13 November 2000.

On 26 February 2002, applicant submitted a second copy of the 10 September 2001 submission and a cover letter.

DISCUSSION

The 13 November 2000 mailing is not present in the file. However, 37 CFR 1.8(b) states, in part:

> 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.

Items (1), (2), and (3) have been met. Applicant filed the petition within two months of the mailing of the Notification of Abandonment. Applicant supplied a copy of the declaration and the cover letter with the certificate of mailing. Mr. Hughey signed the 13 November 2000 submission, the certificate of mailing and the 10 September 2001 submission. In the 10 September 2001 submission, Mr. Hughey states that he has first hand knowledge that the original submission was mailed.

The surcharge for late filing of the oath or declaration will be charged to deposit account no. 50-0241, as authorized by the 08 September 2000 transmittal letter.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.8 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment mailed on 11 June 2001 is hereby **VACATED**.

The application has an international filing date of 16 March 1999 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **10 September 2001**. This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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Paper No. 24

MICHAEL L GOLDMAN
NIXON PEABODY
CLINTON SQUARE
PO BOX 31051
ROCHESTER, NY 14603

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AUG 27 2003
OFFICE OF PETITIONS

In re Application of :
Isao Karube et al :
Application No. 09/623,970 : NOTICE
Filed: December 28, 2000 :
Attorney Docket No. 201487/1030 :

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 1636.

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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HOGAN & HARTSON
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SUITE 1900
LOS ANGELES, CA 90071-2611

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OFFICE OF PETITIONS

In re Application of	:	
Shoicho Hirota et al	:	
Application No. 09/624,062	:	ON PETITION
Filed: July 24, 2000	:	
Attorney Docket No. 81940.0001	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance or 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 21, 2003.

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

The application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Suite 4200
Chicago, IL 60603-5803

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 7

In re application of
Dante Monteverde
Application No. 09/624,107
Filed: July 24, 2000
For: INTERNET-BASED ADVERTISING AND REFERRAL SYSTEM

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 that was filed on December 26, 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 December 26, 2002 lacks requirement 2(C), above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not all that related to the invention.

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 supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

kjd/tpl: 02/25/03

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United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of:
Kapur, et al.
Application No. 09/624,131
Filed: July 21, 2000
Attorney Docket No. 97,223-I

DECISION ON PETITION

This is a decision on the petition, filed September 27, 2005, under 37 CFR 1.182 to substitute a prior filed terminal disclaimer for the terminal disclaimer filed on September 27, 2005.

The petition under 37 CFR 1.182 that the USPTO accept a"replacement" Terminal Disclaimer is **dismissed**. Pursuant to petitioners' authorization, deposit account no. 13-2490 will be charged the required $400.00 37 CFR 1.182 petition fee.

Any further reconsideration 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 "Reconsideration petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. §704.

Petitioners request that the Office accept a corrected terminal disclaimer to replace the April 1, 2003 terminal disclaimer. Petitioners note that the corrected terminal disclaimer provides the same disclaimer for which withdrawal is sought. It is unclear why petitioners desire this substitution.

It is noted that a RCE is being filed concurrently. The filng of a RCE does not nullify the effect of a terminal disclaimer, since a new application has not been filed, but rather prosecution has been continued in the existing application.

A few differences between the terminal disclaimers are noted: First, the replacement terminal disclaimer lists the owner as Cellomics, while the original terminal disclaimer lists the owner as Cellomics, Inc.. The undersigned has not found an assignment or assignment record that lists the owner as Cellomics. Second, the replacement terminal disclaimer lists the address of the law firm in pertinent part as, 31st floor, while the correspondence address of record cites the 32nd floor.

Petitioners should clarify the reasons supporting the requested relief.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

In re Application of:	:	
Kapur, et al.	:	
Application No. 09/624,131	:	DECISION ON PETITION
Filed: July 21, 2000	:	
Attorney Docket No. 97,223-I	:	
	:	

This is a decision on the reconsideration petition, filed January 17, 2006, under 37 CFR 1.182 to substitute the terminal disclaimer filed on September 27, 2005 for the terminal disclaimer filed on April 2, 2003.

The petition under 37 CFR 1.182 that the USPTO accept a"replacement" Terminal Disclaimer is **granted.**

Petitioners request that the Office accept a corrected terminal disclaimer to replace the April 2, 2003 terminal disclaimer. Petitioners note that the corrected terminal disclaimer provides the same disclaimer. However, the April 2, 2003 terminal disclaimer inadvertently listed Cellomics, Inc. as the owner of the above-identified application and patent no. 6,416,959, while the owner of both the above-identified application and the patent at the time was Carl Zeiss Jena GmbH. Therefore, the April 2, 2003 terminal disclaimer contained a crucial error. On August 30, 2005, the rights to the above-identified application and patent no. 6,416,959 were assigned back to Cellomics, Inc..

The acceptance of the terminal disclaimer filed on September 27, 2005 is granted. The April 2, 2003 terminal disclaimer has been "closed" in the electronic application file.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1641.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 21 2006

OFFICE OF PETITIONS

In re Patent No. 7,072,855	:	
Issue Date: July 4, 2006	:	
Application No. 09/624,154	:	NOTICE
Filed: July 24, 2000	:	
Attorney Docket No. 16166-001800US		

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

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In re Patent No. 6481040
Issue Date: November 19,2002
Application No. 09624177
Filed: July 24,2000
Attorney Docket No. JLM.001

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

This is a decision on the electronic petition, filed February 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6481040	2002-11-19	09624177	2000-07-24	2886-1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Lawrence A. Maxham/	Date (YYYY-MM-DD)	2007-02-12
Name	Lawrence A. Maxham, Esq.	Registration Number	24483

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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OFFICE OF PETITIONS

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Mark Donner, et al.	:	
Application No. 09/624,191	:	DECISION ON PETITION
Filed: July 24, 2000	:	TO WITHDRAW
Attorney Docket No. 06975-100001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 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 Scott R. Boalick on behalf of himself.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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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ZION HADAD
48 HAALMOGIN STREET
RISHON LEZION IL ISRAEL

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OFFICE OF PETITIONS

In re Application of	:	
Hadad, Zion	:	
Application No. 09/624,236	:	ON PETITION
Filed: July 24, 2000	:	
Title: SYSTEM AND METHOD FOR CELLULAR COMMUNICATIONS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

Petitioner's credit card has mistakenly been charged $685.00 on three separate occasions, totaling $2055.00. The small-entity petition fee is $750.00. Accordingly, $1305.00 will be credited to petitioner's credit card in due course.

This matter is being referred to Technology Center 2600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ZION HADAD
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RISHON LEZION, IL ISRAEL

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Hadad, Zion	:	
Application No. 09/624,236	:	ON PETITION
Filed: July 24, 2000	:	
Title: SYSTEM AND METHOD FOR CELLULAR COMMUNICATIONS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on April 24, 2006.

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

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

---

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

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

The instant petition lacks items (1) and (2). The credit card submitted to pay the issue and petition fees was deemed invalid by the OIPE Customer Service. Petitioner must submit the fees to reinstate the instant application.

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

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

By hand: Customer Window located at:

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZION HADAD
48 HAALMOGIM STREET
RISHON LEZION IL ISRAEL

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Hadad, Zion	:	
Application No. 09/624,236	:	ON PETITION
Filed: July 24, 2000	:	
Title: SYSTEM AND METHOD FOR CELLULAR COMMUNICATIONS	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Publications Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/624,252	07/24/2000	Bernd Schottker	1384.1038 (JDH)	6211

7590 02/12/2002

Dr Wilhelm Munich
Dr Munich & Kollegen Anwaltskanzlei
Wilhelm-Mayr_Str 11
D-80689 Munchen,
GERMANY

EXAMINER
KUNEMUND, ROBERT M

ART UNIT	PAPER NUMBER
1765	

DATE MAILED: 02/12/2002

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

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

Mailed:

Paper Number 10

In re Application of:
Bernd Schoettker et al.
Serial No. 09/624,252
Filed: July 24, 2000
For: METHOD FOR GROWING NITROGENOUS SEMICONDUCTOR CRYSTAL MATERIALS

DECISION ON PETITION

This is a decision on the petition, filed December 11, 2001, to correct inventorship under 37 CFR 1.48 (a). It is noted that the applicant has met the requirements of (i) a petition including statements from the person who through error were not named as inventors that the error in inventorship occurred without deceptive intention on their part; (ii) an oath or declaration by the actual inventors as required by 37 CFR 1.63; (iii) the fee set forth in 37 CFR 1.17(i); and (iv) the written consent of the assignee under 37 CFR 3.73(b).

The petition is **GRANTED**.

Benjamin L. Utech
Supervisory Patent Examiner, Art Unit 1765
Technology Center 1700

ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
2400 MONARCH TOWER
STAMFORD, CT 06905-5619

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 22

WESLEY W. WHITMYER, JR.
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CONNECTICUT 06905-5619

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DEC 18 2002

OFFICE OF PETITIONS

In re Application of :
Bernd Schottker :
Application No. 09/624,252 : ON PETITION
Filed: July 24, 2000 :
Attorney Docket No. 03345-P0013A

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 submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed May 19, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 20, 2002.

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

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

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

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St. Onge Steward Johnston & Reens
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Paper No. 22

WESLEY W. WHITMYER, JR.
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CONNECTICUT 06905-5619

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DEC 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Bernd Schottker :
Application No. 09/624,252 : ON PETITION
Filed: July 24, 2000 :
Attorney Docket No. 03345-P0013A

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 submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed May 19, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 20, 2002.

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

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

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

St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford Connecticut 06905-5619
(203) 324 6155
(203) 327 1096
ssjr.com

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Alexandria, VA 22313

YOUR FILE

FAX NUMBER
703-872-9306

SSJR FILE
03345-P0013A

FROM
Lisa A. Evensen for
Wesley W. Whitmyer, Jr.

NOTES

Re: Application No. 09/624,252 filed July 24, 2000

New York (212) 730 4554
New Haven (203) 562 0400

SPE: S. Najjar

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/18/07

TO SPE OF : ART UNIT 2155

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/624,270 Patent No.: 7007071

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: _____

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER

SPE

2155
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

WENDI R. SCHEPLER
CARR & FERRELL, LLP
2225 EAST BAYSHORE ROAD, SUITE 200
PALO ALTO, CA 94303

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MAY 16 2002
OFFICE OF PETITIONS

In re Application of :
Yoram Nelken :
Application No. 09/624,361 :
Filed: July 24, 2000 :
Attorney Docket No. PA1476US :

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 3600.

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
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application	: DECISION ON
Saito, et al.	: PATENT TERM ADJUSTMENT
Application No. 09/624,376	: AND
Filed: July 27, 2000	: NOTICE OF INTENT
Patent No. 6,897,988	: TO ISSUE
Issued: May 24, 2005	: CERTIFICATE OF CORRECTION
Attorney Docket No. 03500.014647	

This is a decision on the "APPLICATION FOR REDETERMINATION OF PATENT TERM ADJUSTMENT", filed July 21, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from five hundred twenty-nine (529) days to five hundred eighty-nine (589) days.

The request is **GRANTED**.

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 **five hundred eight-nine (589)** days.

On May 24, 2005, the above-identified application matured into U.S. Patent No. 6,897,988. The instant request for reconsideration filed July 21, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of five hundred twenty-nine (529) days. Patentees state that they should not have been assessed applicant delay of sixty (60) days for the submission of a "Request for Corrected Notice of Allowance", pointing out two errors in the Notice of Allowance and Notice of Allowability. The first error pertained to the title of the invention, while the second error was in incorrectly listing the claims said to have been allowed.

The "Request for Corrected Notice of Allowance" 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 under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of this paper is not a failure to engage under 37 C.F.R. §1.704(c)(10). Applicants' submission of this paper was the first opportunity for applicants to have the error corrected. Accordingly, the assessment of sixty (60) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **five hundred eight-nine** days (676 (673+3) days of PTO delay, reduced by 87 (6+47+34) days of applicant delay).

Receipt of the $400.00 fee set forth in 37 C.F.R. §1.18(f) is acknowledged. An application for patent term adjustment under 37 C.F.R. § 1.705(d) only requires the $200.00 fee set forth in 37 C.F.R. § 1.18(e). Accordingly, the overpayment of $200.00 has been refunded to Deposit Account No. 06-1205.

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 **five hundred eighty-nine (589)** days subject to any disclaimers.

Telephone inquiries specific to this matter 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

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

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. 6564079
Issue Date: May 13,2003
Application No. 09624397
Filed: July 27,2000
Attorney Docket No. 54644-012

:

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

:

This is a decision on the electronic petition, filed September 14,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6564079	2003-05-13	09624397	2000-07-27	

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. Hansen/	Date (YYYY-MM-DD)	2007-09-13
Name	Robert M. Hansen	Registration Number	43656

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,916,301	2005-07-12	09/624,406	2000-07-24	I2CAS001.28

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert N. Blackmon/	Date (YYYY-MM-DD)	2009-09-03
Name	Robert N. Blackmon	Registration Number	39494

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. 6916301
Issue Date: July 12,2005
Application No. 09624406
Filed: July 24,2000
Attorney Docket No. CLA 0001P

:

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

:

This is a decision on the electronic petition, filed September 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

Keil & Weinkauf
1350 Connecticut Avenue, NW
Washington, DC 20036

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OFFICE OF PETITIONS

In re Application of
Karen Peukert et al.
Application No. 09/624,413
Filed: July 24, 2000
Attorney Docket No. 47958 DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 30, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 31, 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.

This application is being forwarded to Technology Center AU 1653.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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MAY - 1 2003

Paper No. 16

In re Application of
Kiyoshi Okamoto *et al*
Application No. 09/624,619
Filed: July 24, 2000
Attorney Docket No. CANO:011

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 12, 2003 by which petitioner requests withdrawal of the Notice of Non-Responsive Amendment mailed on November 5, 2002 and adhered to by the Primary Examiner on reconsideration. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the record shows that in reply to a rejection mailed on May 6, 2002, paper No. 6, petitioners filed an amendment and a petition for extension of time on August 15, 2002. See paper No. 7. Paper No. 12 sets forth the Primary Examiner's rationale for holding the amendment to be informal/nonresponsive (the inclusion in the amendment of changes to claim 11 that allegedly added "details that are not specific to the elected invention of Group IX". Petitioners filed a timely request for reconsideration, paper No. 13, and the Primary Examiner thereafter adhered to his position, paper No. 14.

Petitioners' arguments as presented in paper No. 13 and in the instant petition are persuasive. This is particularly so in light of the Primary Examiner's rationale for holding the amendment to be informal/nonresponsive, and the Primary Examiner's letter adhering to his position on reconsideration. With respect to the latter, it is irrelevant what the Primary Examiner "construed" the claim to cover when examining it for patentability. The issue is whether or not petitioners shifted inventions when amending claim 11. The Primary Examiner, who has conceded that his action is taken "according to the best understanding of the disclosure by the Examiner", cannot decide that the claim 11 was properly construed to read on one element of structure when the language of the claim does not limit it to solely that one element of structure.

Moreover, the Primary Examiner's reliance the language of claim 16, a member of a group of claims comprising a nonelected invention, as illustrating that claim 11 was originally limited to an invention other than now recited in the amended version of claim 11, is not persuasive. Claim 11 as originally filed included the limitation "detecting means for detecting an end position the sheet in a direction at a right angle relative to a conveying direction of the sheet". This limitation finds support page 14, lines 26-27, wherein the corresponding structure is disclosed as being sensor 93, which appears to correspond with the disclosure on page 5, lines 17 *et seq* of a "sheet end detecting means" which can move at a right angle relative to the conveying direction of the sheets . Claim 16 as originally filed added a limitation to the "sheet processing means" recited in claim 11, not to the "detecting means" of claim 11. Even if one considers claim 17, which in fact does further limit the "detecting means" of 11, it is clear from the disclosure that this detecting means is, structurally, element 93 and not sensor 31 which is, on page 14, line 26 described as "sheet detecting sensor 31, which appears to correspond to the disclosure in the sentence bridging pages 5 and 6 of a "sheet detecting means".

In summary, it appears that the Primary Examiner's position in refusing to enter the amendment filed on August 15, 2002 because the amendment to claim 11 added details "not specific to the elected invention", and thereby constituted "a shift in the middle of prosecution", was clearly erroneous.

This application is being returned to the Supervisory Patent Primary Examiner of Art Unit 3724 who shall instruct the Primary Examiner to take appropriate action consistent with this Decision, including entry of the amendment dated August 15, 2002 and examination of at least claims 11 and 12. The Supervisory Patent Primary Examiner is also directed to review the Primary Examiner's restriction requirement for compliance with the procedures set forth in Chapter 800 of the Manual of Patent Examining Procedure, and to consider whether the requirement as promulgated should be maintained, notwithstanding petitioners' election without traverse in paper No. 7.

PETITION GRANTED.

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

Rossi & Associates
P.O. box 826
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UNITED STATES PATENT AND TRADEMARK OFFICE

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5111 MEMORIAL HIGHWAY
TAMPA FL 33634-7356

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OFFICE OF PETITIONS

In re Patent of	:	
Ehrenberg and Wernicke	:	
Patent No. 6,879,941	:	
Issue Date: April 12, 2005	:	Decision on Request
Application No. 09/624,731	:	
Filing Date: July 25, 2000	:	
Attorney Docket No. 3926.009	:	

This is a decision on the request filed on August 11, 2005 under 37 CFR 3.81(b) to accept the correction of the assignee data after the patent has issued.

The request under 37 CFR 3.81(b) is **granted**.

37 CFR 3.81(b) currently states:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Pursuant to petitioner's authorization, deposit account no. 16-0877 will be charged the $130.00 processing fee associated with filing a petition under 37 CFR 3.81(b) request.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

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

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20231
www.uspto.gov

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MAY 2 3 2001

Technology Center 2100

Paper No. 3

R. Lewis Gable
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799

In re Application of : G. Sullivan
Application No. 09/624,732
Filed: July 25, 2000
For: APPARATUS AND METHOD FOR CREATING AND MANAGING A FINANCIAL INSTRUMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed March 16, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not fully comply with (B), (C) and (D) above. Specifically with respect to (B), while petitioner states that all the claims are directed to a single invention, the petition does not also include a statement indicating that if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse. With respect to (C), the search documented in Appendix A appears to consist of a text search. No other search has been identified. As a result, no search by class and subclass was found. Concerning (D), full copies of U.S. Patent No.s 5,193,056 and 5,999,917 have not been provided. As petitioner indicates, only a copy of the abstract and claim 1 of two patents have been submitted even though they are deemed by applicant to be among the references most closely related to the subject matter of the claims.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

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WASHINGTON, DC 20231
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Technology Center 2100

Paper No. 5

R. Lewis Gable
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799

In re Application of : G. Sullivan
Application No. 09/624,732
Filed: July 25, 2000
For: APPARATUS AND METHOD FOR CREATING AND MANAGING A FINANCIAL INSTRUMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the response filed June 12, 2001 regarding the decision mailed May 23, 2001 on the petition, filed March 16, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submissions together meet the criteria of 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section VIII. 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

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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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

David E. Lovejoy
102 Reed Ranch Road
Tiburon, CA 94920-2025

In re application of
Drew Shaffer Roselli et al.
Application No. 09/624,747 :
Filed: July 24, 2000 :
For: FAULT-TOLERANCE FRAMEWORK FOR AN EXTENDABLE COMPUTER ARCHITECTURE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the renewed request filed on November 26, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statements included in the request that, "The assignee is...attempting to find a purchaser of the company" and, "Whatever new form the company takes, if any, new attorneys are required"; it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Simply because a company is restructuring or attempting to be sold, that does not automatically meet one of the acceptable reasons for an attorney withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

snm: 12/16/02

Application No. 09/115,094

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

HARTMAN AND HARTMAN P.C.
552 EAST 700 NORTH
VALPARAISO, IN 46383

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JUN 1 7 2003

OFFICE OF PETITIONS

In re Application of :
Robert William Bruce et al :
Application No. 09/624,810 : ON PETITION
Filed: July 24, 2000 :
Attorney Docket No. 13DV-13228 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 31, 2002, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed, 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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1763 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
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LANIER FORD SHAVER & PAYNE
P O BOX 2087
HUNTSVILLE AL 35804

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OFFICE OF PETITIONS

In re Application of :
Baker :
Application No. 09/624,831 : ON PETITION
Filed: July 25, 2000 :
Attorney Docket No. PA3131US :
For: INTERPRETIVE SIMULATION OF
SOFTWARE DOWNLOAD PROCESS

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005 (certificate of mailing date June 8, 2005), to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply to the final Office action of April 6, 2004. Petitioner filed amendments after final on July 9, 2004 (certificate of mailing date July 6, 2004) and on October 12, 2004 (certificate of mailing date October 6, 2004) that failed to place the above-identified application in *prima facie* condition for allowance. Since petitioner purchased a three month extension of time on October 12, 2004 (certificate of mailng date October 6, 2004), this application became abandoned on October 7, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted a proper reply in the form of a RCE, required fee, and amendment, an acceptable statement of the unintentional nature of the delay in responding to the April 6, 2004 final Office action, and the petition fee.

Regarding the statement of unintentional delay, it was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

After the mailing of this decision the application will be forwarded to Technology Center Art Unit 2122 for further examination.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: EUGENE G. KIM
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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JUN 20 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Whay S. Lee :
Application No. 09/624,850 :
Filed: July 25, 2000. :
Attorney Docket No. :
5181-55000 :

DECISION ON PETITION

This is a decision on the petition filed February 27, 2001, requesting that the above-identified application be accorded a filing date of July 25, 2000. The delay in treating this petition is regretted.

The application was filed on July 25, 2000. However, on September 14, 2000, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application (hereinafter "Notice"), stating that the application had been accorded a filing date of July 25, 2000, and advising applicants that Figures 2f - 22e described in the specification appeared to be missing.

In response, on October 5, 2000, applicant submitted a Preliminary Amendment and Response to Notice of Omitted Item(s) wherein Petitioner states that the references to Figures 2f - 22e in the specification are typographical errors and that no drawing was omitted. The Preliminary Amendment deletes references to Figures 2f - 22e in the specification.

Petitioner avers that he subsequently received a second Filing Receipt on February 12, 2001, indicating a new filing date of October 5, 2000[1].

Petitioners responds with the instant Petition. The petition argues that no new matter has been added, nor were any omitted

[1]There is no record in the PALM database, nor in the file, of this Office having mailed the filing receipt on February 12, 2001. The PALM database, however, at the time this decision was written, reflect this application's filing date as October 5, 2001.

items submitted, thus the original filing date of July 25, 2000 should be retained.

Based on the statements made in the petition, which is signed by a registered practitioner, it appears that the references in the specification to Figures 2f - 22e are typographical errors and that no drawings containing Figures 2f - 22e were intended to be filed on July 25, 2000.

In view of the above, the petition is granted.

The petition is granted.

No petition fee is required and none has been charged.

The application will be returned to the Initial Patent Examination Division to issue a corrected Filing Receipt with a filing date of July 25, 2000. Thereafter the application will be forwarded to Technology Center 2700 for further 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
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

09/624885

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Offic

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted The petition to include color figures under 37 CFR 1.84(a)(2) is hereby granted.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Christina Chan
CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 10

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of Nakamura et al. :
Application No. 09/624,916 : Decision on Petition
Filing Date: July 24, 2000 :
Attorney Docket No. FJ-2000-009-US :

This is a decision on the petition under 37 CFR 1.181, filed December 3, 2004, 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 January 20, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was deemed abandoned as of April 21, 2004. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner has established the Office action was never received because the Office erroneously mailed the Office action to an incorrect address.

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

A new non-final Office action will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2624 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new non-final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Shirene Brantley at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MINNEAPOLIS MN 55440-1022

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:
Pravetz, et al.	: DECISION ON APPLICATION
Application No. 09/624,936	: FOR PATENT TERM ADJUSTMENT
Filed: July 25, 2000	:
Attorney Docket No. 07844-431001	:

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT (PTA) PURSUANT TO COMMENT 43 OF THE FINAL RULE (09/18/00) AT ALLOWANCE OF APPLICATION," filed March 20, 2007, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) 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 **nine hundred fifty-three (953)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 20, 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 to date is one thousand, one hundred twenty-three (1123) days.

The Office initially determined a patent term adjustment of one thousand, one hundred twenty-three (1123) days based on an adjustment for PTO delay of seven hundred forty-five (745) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and five hundred eight (508) 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 twelve (112) and six (6) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b) and twelve (12) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8).

A review of the record reveals that the Office mailed a non-final Office action December 30, 2004. Applicants timely filed a response on March 30, 2005. On April 11, 2005, applicants filed an IDS, and were assessed delay of twelve (12) days pursuant to 37 C.F.R. § 1.704(c)(8). However, applicants filed an additional IDS on September 28, 2005, and were not assessed any days of delay. This was in error. Applicants should have been assessed one hundred seventy (170) days of delay pursuant to 37 C.F.R. § 1.704(c)(8) beginning on the date after the reply was filed (April 12, 2005) and ending on the date applicant filed the second supplemental IDS (September 28, 2005).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **nine hundred fifty-three (953)** days (1253 (745+508) days of PTO delay, reduced by 300 (6+112+170+12) days of Applicant delay).

No petition fee was required. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The matter is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 8/15/2007
Time: 20:22:25

PTA Calculations for Application: 09/624936			
Application Filing Date:	07/25/2000	PTO Delay (PTO):	1253
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	130
Post-Issue Petitions:	0	Total PTA (days):	953
PTO Delay Adjustment:	-170		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	08/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		170	
53	12/20/2006	MAIL NOTICE OF ALLOWANCE	508		37
52	12/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	12/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	12/18/2006	ISSUE REVISION COMPLETED			
49	11/13/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	09/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	09/26/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
45	09/28/2005	REFERENCE CAPTURE ON IDS			
44	09/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	06/27/2005	NOTICE OF ALLOWABILITY			
42	06/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
41	04/19/2005	DATE FORWARDED TO EXAMINER			
40	04/19/2005	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
39	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		12	37
38	04/19/2005	DATE FORWARDED TO EXAMINER			
37	03/30/2005	RESPONSE AFTER NON-FINAL ACTION			
36	12/30/2004	MAIL NON-FINAL REJECTION			
35	12/23/2004	NON-FINAL REJECTION			
34	11/22/2004	DATE FORWARDED TO EXAMINER			

33	10/27/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		112	18
32	11/22/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	10/13/2004	MAIL ADVISORY ACTION (PTOL - 303)			
30	10/12/2004	ADVISORY ACTION (PTOL-303)			
29	10/08/2004	MAIL ADVISORY ACTION (PTOL - 303)			
28	10/07/2004	ADVISORY ACTION (PTOL-303)			
27	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	09/14/2004	DATE FORWARDED TO EXAMINER			
25	09/09/2004	AMENDMENT AFTER FINAL REJECTION			
24	09/09/2004	MISCELLANEOUS INCOMING LETTER			
23	09/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	07/15/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
21	07/04/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	06/10/2004	LETTER REQUESTING INTERVIEW WITH EXAMINER			
19	07/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	04/07/2004	MAIL FINAL REJECTION (PTOL - 326)			
17	04/05/2004	FINAL REJECTION			
16	02/03/2004	DATE FORWARDED TO EXAMINER			
15	01/16/2004	RESPONSE AFTER NON-FINAL ACTION		6	14
14	10/10/2003	MAIL NON-FINAL REJECTION	745		-1
13	10/06/2003	NON-FINAL REJECTION			
12	07/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	07/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	07/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	07/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	01/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	12/30/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	03/07/2001	APPLICATION DISPATCHED FROM OIPE			
5	03/07/2001	APPLICATION IS NOW COMPLETE			
4	09/19/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	09/13/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/17/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/25/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Patent No. 6,410,723	:	
Issue Date: 25 June, 2002	:	
Application No. 09/625,040	:	ON PETITION
Filed: 24 July, 2000	:	
Attorney Docket No.11245/18	:	

This is a decision on the petition, filed via FAX on 27 January, 2006, and appropriately considered under 37 C.F.R. §1.377 to accept and record a maintenance fee for the above-identified patent (Patent No. 6,410,723 (the '723 patent).

The petition under 37 C.F.R. §1.377 is **DISMISSED without prejudice**.

NOTES: **The address of record is not that of Petitioner, and there is no indication that Petitioner herein ever Noticed the Office as to a change of address. If Petitioner desires to receive future correspondence regarding this application, Notice the appropriate Notice 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.**

BACKGROUND

The instant patent, Patent No. 6,410,723, issued on 25 June, 2002

The first maintenance fee could have been paid without a surcharge from 25 June, 2005, through 27 December, 2005.

Petitioner avers, but does not support with documentary evidence:

- an attempt to pay timely the first maintenance fee; and
- refusal by the Office of said payment.

Should Petitioner find it necessary to re-advance the instant petition, such documentation will be required.

While the bank lockbox through which payments are received and processed does not provide to the Office a listing of actual payors, a review by Office staff of data available suggests that the fees averred to have been paid may have been tendered by what generally is known as an "annuity service"–which submits maintenance fees on behalf of clients.

As of this writing, Petitioner has failed to demonstrate adequately that the Office may accept and record payment of the first maintenance fee for the above-noted '723 patent pursuant to 37 C.F.R. §1.377.

Further correspondence with respect to this matter should be addressed as follows:[1]

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

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

---

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

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

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

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

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

cc:
THOMAS C. GALLAGHER
IMCLONE SYSTEMS INCORPORATED
180 VARICK STREET/6TH FLOOR
NEW YORK, NEW YORK 10014

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STEVEN J. ADAMSON
P O BOX 5997
PORTLAND, OR 97228

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:
Douglas g. Lockie et al	:
Application No. 09/625,065	: DECISION GRANTING PETITION
Filed: July 25, 2000	: UNDER 37 CFR 1.137(b)
Attorney Docket No. END 028	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 3004, 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 issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

BLACK LOWE & GRAHAM
816 SECOND AVE.
SEATTLE WA 98104

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JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Stephen J. Brown
Application No. 09/625,080
Filed: July 25, 2000
For: AGGREGATING AND POOLING INFORMATION IN A COMMUNICATION SYSTEM WITH FEEDBACK

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed on June 13, 2003, to revive the above-identified application.

The petition is again **DISMISSED**.

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

This application became abandoned on November 14, 2000 for failure to respond to the Notice to File Missing Parts mailed September 13, 2000. Accordingly, a Notice of Abandonment was mailed May 9, 2002.

Petitioner argues that a response was timely filed on November 7, 2000 but that the serial number for the parent application was incorrectly used on the transmittal letter and the post card and thus there might exist some confusion as to how to process the response.

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

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3), above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). 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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Pursuant to the rules in 37 CFR 1.5, correspondence directed to the United States Patent and Trademark Office must properly identify the application by the number assigned by the USPTO, the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned. By not providing the proper application numbers on the transmittal letter and the post card, petitioners did not use the care and diligence of a reasonably prudent individual in submitting the response and thus the response was not timely filed in the present application.

Additionally, since no extensions of time were obtained and by the time petitioners noticed that the wrong application number was placed on the correspondence, the application was already abandoned.

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

A delay resulting from the improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable"delay[3] and thus the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

Furthermore, the response to the Notice to File Missing Parts has still not been filed. It is appreciated that the required response, the declaration, may have been filed in the parent application but it has not been filed in this application and until such time as it has, the proper response to the Notice mailed September 13, 2000 is lacking.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which 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).

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).

---

[3]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).

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

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

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

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

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

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)308-6916
Attn: Office of Petitions

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

Telephone inquiries concerning this matter may be directed to 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

BLACK LOWE & GRAHAM
816 SECOND AVE.
SEATTLE WA 98104

In re Application of
Stephen J. Brown
Application No. 09/625,080
Filed: July 25, 2000
For: AGGREGATING AND POOLING INFORMATION IN A COMMUNICATION SYSTEM WITH FEEDBACK

ON PETITION

This is a decision on the petition filed July 28, 2003, to revive the above identified application under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

This application became abandoned on November 14, 2000 for failure to file a timely response to the Notice to File Missing Parts "Notice" mailed September 13, 2000, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed May 9, 2002.

A review of the file reveals that a petition under 37 CFR 1.137(a) was filed June 13, 2003 and dismissed in a decision dated June 24, 2003. It appears that the declaration from the parent case was filed November 7, 2000 but with the wrong serial number and has only now been matched with the file. Thus, the declaration was not timely filed in the instant matter and therefore the application was appropriately abandoned.

This application 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 Petitions Attorney at (703) 305-4497.

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JAMES H MORRIS
WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON, MA 02210

COPY MAILED

DEC 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Isabelle Claverie :
Application No. 09/625,116 : ON PETITION
Filed: July 25, 2000 :
Attorney Docket No. S1022/8500 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 19, 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 November 20, 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Junichi Mimura
OKI America Inc
Suite 555
1101 14th Street NW
Washington, DC 20005

APR 2 2002

In re Application of)
NAKAMURA)
Application No. 09/625,178)
Filed: July 25, 2000)
Attorney Docket No. F98ED0762)

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on January 30, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on December 28, 2001, be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **granted**.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on January 30, 2002. The petition was filed within two weeks of the date of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on December 28, 2001, is hereby reset to run FROM THE RECEIPT DATE OF January 30, 2002.

The application file is being forwarded to the Central Files of Technology Center 2800 to await a response to the Office communication. No fee is required for the petition.

Edward Glick, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-4858

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Junichi Mimura
OKI America Inc
Suite 555
1101 14th Street NW
Washington, DC 20005

COPY MAILED
AUG 27 2004
OFFICE OF PETITIONS

In re Patent of	:
Hiroki Nakamura	:
Application No. 09/625,178	: DECISION
Filed: July 25, 2000	: ON PETITION
Attorney Docket Number:	:
F98ED0762	:

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed February 20, 2004.

The petition is **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 12, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on December 17, 2003.

Applicant files the instant petition and Amendment in response to the final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a proper reply to the May 12, 2003 Office action. The Amendment, filed with the instant petition on February 20, 2004, fails to place the application in condition for allowance.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES 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.

Junichi Mimura
OKI America Inc
Suite 555
1101 14th Street NW
Washington, DC 20005

COPY MAILED

NOV 2 2 2004

OFFICE OF PETITIONS

In re Patent of	:	
Hiroki Nakamura	:	
Application No. 09/625,178	:	DECISION
Filed: July 25, 2000	:	ON PETITION
Attorney Docket Number:	:	
F98ED0762	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed February 20, 2004.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 12, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on December 17, 2003.

A petition to revive the application filed February 20, 2004, was dismissed in a Decision mailed August 27, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a Request for Extension of time, and a submission in the form of an Amendment.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

This application is an image file wrapper ("IFW") and, as such, no forwarding of the file is necessary. An electronic mail

message will be sent to Technology Center 3683 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
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/20/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/625201 Patent No: 7274747B1

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.

- [x] **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

David Payne
SPE

2611
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. 5

Charles E Baxley
5th Floor
59 John Street
New York NY 10038

COPY MAILED

JAN 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Kuo :
Application No. 09/625,214 : ON PETITION
Deposited: July 24, 2000 :
Attorney Docket No. 11509 B :
For: TREADMILL HAVING A CUSHIONED DECK :
LIMITING DEVICE

This is a decision on the petition under 37 CFR 1.137(a), filed October 31, 2002 (certificate of transmission date October 25, 2002), to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181 to withdraw the termination of proceedings in the above-identified application and a petition under 37 CFR 1.53(e) to obtain a filing date for the above-identified applicaiton.

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

The petition under 37 CFR 1.53(e) is **DISMISSED**.

This application was held abandoned for failure to respond in a timely manner to the Notice of Incomplete Nonprovisional Application (Notice) mailed on September 13, 2000, which stated that no filing date had been accorded to the papers filed on July 24, 2000 because no drawings were included in the filing. A Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on October 3, 2002.

Regarding the petition under 37 CFR 1.181, petitioner asserts that a proper response was in fact timely filed during the month of October. The October response is not present in the application file. To prove that a proper reply was timely filed, petitioner has submitted a copy of the response to the Notice. The response, which is a petition under 37 CFR 1.53(e), bears a valid certificate of mailing, dated October 4, 2000, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1).

Thus, the petition under 37 CFR 1.181 is **GRANTED** because petitioner has shown that a proper response to the September 13, 2000 Notice was timely filed. The Notice of Termination of Proceedings under 37 CFR 1.53(e) is hereby vacated.

Regarding the petition under 37 CFR 1.53(e), the copy of the October response includes a date-stamped post card receipt acknowledging receipt of the 7 sheets of drawings in the United States Patent and Trademark Office (Office) on July 24, 2000. M.P.E.P. § 503 states, " [a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by

the PTO." Accordingly, it is concluded that 7 sheets of drawings were received in the Office but later misplaced.

However, the petition under 37 CFR 1.53(e) cannot be granted at this time because the only copy of the originally filed 7 sheets of drawing figures found in the application file were sent by facsimile. As stated in 37 CFR 1.6(d)(4), drawings may not be submitted via facsimile. The application cannot be processed until 7 sheets of drawing figures are received in the Office, either submitted by hand or by mail.

Accordingly, the petition under 37 CFR 1.53(e) is **DISMISSED**.

The application file will be retained in the Office of Petitions until 7 sheets of drawing figures are submitted, either by hand or by mail.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

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
Attn: E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Charles E Baxley
5th Floor
59 John Street
New York NY 10038

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Kuo
Application No. 09/625,214
Filed: July 24, 2000
Attorney Docket No. 11509 B
For: TREADMILL HAVING A CUSHIONED DECK LIMITING DEVICE

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e) to obtain a filing date for the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice of Incomplete Nonprovisional Application (Notice) mailed on September 13, 2000, which stated that no filing date had been accorded to the papers filed on July 24, 2000 because no drawings were included in the filing. A Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on October 3, 2002.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 31, 2002 (certificate of transmission date October 25, 2002) was granted on January 22, 2003 because petitioner proved that drawings were filed on July 24, 2002 with an itemized date stamped postcard receipt. MPEP 503.

Unfortunately, the application could not be processed on January 22, 2003 because the sheets of drawing figures resubmitted with the petition were transmitted by facsimile and 37 CFR 1.6(d)(4) states that drawings may not be submitted via facsimile

Petitioner has resubmitted the misplaced drawings via mail.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**.

On January 24, 2000, petitioner submitted $345.00 for the utility application filing fee. A review of Office financial records indicates that the Office retained $130.00 of the $345.00 as a handling/processing/retention fee. Since petitioner has proved that the application never went abandoned, this $130.00 should be applied towards the $345.00 utility application filing fee. The Office of Initial Patent Examination will mail petitioner a notice detailing financial requirements in due course.

After the mailing of this decision, the application file will be returned to OIPE for further processing with a filing date of July 24, 2000, using the 7 sheets of drawing figures submitted on February 10, 2003.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS,MN 55402-3901

COPY MAILED

DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of Paul Wensley, et al. Application No. 09/625,226 Filed: July 24, 2000 Attorney Docket No. 20133-000300US	: : : : :	ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 29, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on December 29, 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 Glenn L. Webb appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Webb desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Alll 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.

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 2625 for consideration of the response filed August 16, 2004.

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

cc: GLENN L. WEBB
WEBB LEWIS & MEYERS LLC
2300 15TH STREET, SUITE 320
DENVER, CO 80202

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

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Wensley, et al.	:	
Application No. 09/625,226	:	ON PETITION
Filed: July 24, 2000	:	
Attorney Docket No. 20133-000300US	:	

This is a decision on the petition, filed January 11, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**, since the application was returned to a pending status by a decision mailed December 10, 2004.

NOTICE REGARDING TO 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.

Applicant submitted an itemized list of deficient payments as required under 37 CFR 1.28. However, the list does not include the difference between the $665 petition fee submitted on August 16, 2004, and $1500 petition fee now required as a fee deficiency to be accepted under 37 CFR 1.28. In order to accept the fee deficiencies in this case, the petition fee deficiency of $835 must be included. Therefore, since the $1500 petition fee accompanying the present petition to revive is subject to a refund, $835 will be applied to the deficiency owed for the petition to revive, along with the other fees identified of the itemized list. The remaining $665 is being refunded in form of a credit to applicant's credit card.

In view of the above, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

The application is being returned to Technology Center Art Unit 2625.

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

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 13 2001

MAILED

JUN 13 2001

Office of the Director
Group 3600

Michael A. Kaufman
Flehr, Hohbach, Test, Albritton & Herbert, LLP
4 Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187

Paper No. 7

In re application of
David Caplan et al.
Application No. 09/625,228
Filed: July 24, 2000
For: MODULAR RACK FOR COMPACT DISCS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 30, 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 January 30, 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF
1001 G. STREET NW
SUITE 1100
WASHINGTON, DC 20001

MAILED

JAN 3 1 2005

Technology Center 2100

In re Application of: Schomer Application No. 09/625,277 Filed: July 25, 2000 For: PREVIEW WINDOW TO PREVIEW TEXT IN SEVERAL DIFFERENT FONTS SIMULTANEOUSLY	))))))	DECISION ON PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request, filed September 13, 2004, to withdraw the holding of abandonment, mailed August 12, 2004. The request is treated as a petition under 37 CFR 1.181.

The petition is **GRANTED.**

Applicable Prosecution History

December 19, 2003	Non-final rejection mailed (Paper No. 5).
March 19, 2004	Amendment (unsigned)
June 16, 2004	Interview with Examiner.
June 21, 2004	Resubmission of amendment (signed).
August 12, 2004	Notice of Abandonment.
September 13, 2004	Request to withdraw holding of abandonment of August 12, 2004, which includes a copy of the resubmission (filed June 21, 2004) of the signed original amendment (filed March 19, 2004) and a copy of the USPTO return postcard (with the postmark illegible).

The instant application became abandoned for failure to timely respond to the non-final rejection of December 19, 2003. The amendment of March 19, 2004 was unsigned and therefore not entered. Applicants resubmitted the amendment with the proper signature (June 21, 2004) after they were notified of the deficiency in the amendment during an interview with the Examiner,

held on June 16, 2004. The notice of abandonment was in error because the resubmitted amendment was in fact received and entered by the office on June 21, 2004.

In view of these facts, the abandonment of the application was clearly in error and is hereby **WITHDRAWN**. The office apologizes for any inconvenience this may have caused.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status) and to charge deposit account No. 19-0733 for the three-month (noting that 6/19/2004 falls on a Saturday) extension of time fee ($950). The application will then be forwarded to the Examiner for consideration of the June 21, 2004 amendment.

Brian L. Johnson
Special Program Examiner 1/28/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 1/26/05

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

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

COPY MAILED

FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of
Spivey, et al.
Application No.: 09/625,345
Filed: July 25, 2000
Attorney Docket No. LE9-00-022

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to file a proper reply to the final Office action mailed November 1, 2001. A shortened statutory period of three-months was set forth for a reply. Petitioner filed a response on December 31, 2001. By Advisory Action mailed January 31, 2002, petitioner was advised that the response of December 31, 2001, was not entered because it did not *prima facie* place the application in condition for allowance. No other responses were received within the allowable period, and the above-cited application became abandoned on February 2, 2002. A Notice of Abandonment was mailed on December 31, 2002.

The Request for Continued Examination, filed January 21, 2003, is noted.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 11 2005

Scott Hewitt
400 West Third Street
#223
Santa Rosa, CA 95401

In re Application of Patrick Hung Application No. 09/625,442 Filed: July 26, 2000 For: CONFIGURABLE ELECTRONIC REDEEMABLE COUPON	:	DECISION ON PETITION UNDER 37 C.F.R. 1.181 TO VACATE THE EXAMINER'S REJECTION

This is in response to applicant's Petition filed on May 24, 2004, requesting that several rejections in the Office action mailed March 18, 2004 be vacated.

1. The petitioner first requests that the Examiner should issue an affidavit in accordance with 37 CFR 1.104(d)(2) "in order to provide the Applicant an opportunity for response regarding whether the electronic coupon displayed in an alphanumeric format is a barcode format, since the examiner, in light of the lack of citation to authority, apparently asserts this interpretation based upon his personal knowledge." or alternatively to vacate the rejection of claim 8.

The Examiner has made several arguments to support his statements with regard to this issue, not the least of which is that Applicant acknowledges the existence of a plurality of well known barcode standards (UPC, UCC/EAN-128, CODE 49; specification at page 5). The Examiner has also stated that alphanumeric is a scanable format and makes an obviousness statement with motivation for modifying the primary reference of Mankovitz with any of these well known formats. The Examiner has in effect taken Official Notice and backed the statement up with Applicant's own statements of admittedly well known barcode formats. Applicant has had numerous opportunities to respond to both the statements made by the Examiner as well as their own admitted prior art statements concerning well known barcode formats. No affidavit is deemed to be necessary as at the very least Applicant has provided the prior art in their well known statements. The Examiner's rejection is correct and consistent with Office policy and practice. Accordingly, the Petition with regard to this issue is **DENIED**.

2. The petitioner next requests that the amendment after Final rejection filed January 20, 2004 should have been entered and the RCE filing was not necessary, and relatedly that the Examiner erred in rejecting claims 1-9, 11-13 and 16 in the first Office action after the RCE.

It is noted that the Examiner could have entered the After Final amendment, but it would not have changed the fact that the Application was under Final rejection. Applicants filing of an RCE was seen as necessary at this point in the prosecution in order to again bring the Application up for continued examination consideration. As the Final rejection issued August 25, 2003 was procedurally proper and as no affidavit was found to be necessary, the petition with regard to this request is **DENIED**. It is further noted that the first Office action after the entry of the RCE (mailed March 18, 2004) was not made Final, thus giving Applicant opportunity to respond to the changes in rejection that were made between the Final action mailed August 25, 2003 and the non-final action mailed March 18, 2004. It is additionally noted that the rejections issued in the March 18, 2004 Office action were indeed different in that Official Notice statements were specifically added to the reasoning in rejecting claims 1, 5, and 11.

3. The petitioner next requests that the Examiner vacate the rejection of claims 22 and 23 under 35 USC 102(b) and 103(a), respectively, based on the reference to Greenberg et al. (WO 00/39657).

The petition is **DISMISSED** with respect to this issue as rejections are appealable, not petitionable. However, it is noted that the instant Application has a filing date of July 26, 2000, while Greenberg et al. has a publication date of July 6, 2000. Therefore Greenberg et al. is instead 35 USC 102(a) prior art, not 102(b). This typographical error does not change the fact that Greenberg et al. is valid prior art under 35 USC 102, and therefore valid under 35 USC 103.

4. The petitioner finally requests that the Examiner vacate the rejection of claim 23 under 35 USC 103(a) based on the reference to Cathey et al. (US 6,532,375).

The petition is **DISMISSED** with respect to this issue as rejections are appealable, not petitionable. However, it is noted that the instant Application has a filing date of July 26, 2000, while Cathey et al. has an effective filing date of April 24, 1998 due to it being a continuation of Application Serial No. 09/066,616 filed on that date. Since Cathey et al. qualifies as prior art under 35 USC 102(e), it is available as prior art under 35 USC 103(a).

If the petitioner desires further review of the Director's Decision, applicant should consider filing a Petition for Review of the Director's Decision under 37 CFR §1.181(a)(3).

Summary: ***Petition Denied and Dismissed***

John J. Love, Director
Patent Technology Center 3600
571-272-5250
EWS 6/28/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA PA 19103

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APR 16 2008

In re Application of :
WEISSMAN, et al. :
Application No. 09/625,518 : DECISION ON PETITION
Filed: July 25, 2000 :
Attorney Docket No. **119645-00103.6** :

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

This application became abandoned for failure to timely submit corrected formal drawings as required by the Notice Regarding Drawings mailed, December 13, 2006. Accordingly, the date of abandonment of this application is February 14, 2007.

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

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 Monica A. Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA PA 19103

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AUG 27 2008

In re Application of	:	
WEISSMAN, et al.	:	DECISION GRANTING PETITIONS
Application No. 09/625,518	:	UNDER 37 CFR 1.137(b) AND
Filed: July 25, 2000	:	37 CFR 1.313(c)(2)
Attorney Docket No. 119645-00103.6	:	

This is a decision on the renewed petition filed August 18, 2008, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are GRANTED.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue fee on or before January 10, 2007, as required by the Notice of Allowance and Fee(s) Due mailed October 10, 2006. Accordingly, the date of abandonment of this application is January 11, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, corrected drawings, (2) the petition fee of $1500, and (3) an adequate statement of unintentional delay.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application 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]

[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.*

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

This matter is being referred to Technology Center AU 2162 for processing of the RCE and for consideration of the Information Disclosure Statement submitted on August 18, 2008.

Monica A. Graves
Petitions Examiner
Office of Petitions

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MAIL

MAY 19 2005

DIRECTOR
TECHNOLOGY

Mattingly, Stanger, Mauler & Brundidge, P.C.
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

In re Application of
H. MANO, et al.
Application No. 09/625,542
Filed: July 25, 2000
For: **MULTI-TONE DISPLAY DEVICE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition to withdraw holding of abandonment filed September 16, 2003 and renewed petition filed March 24, 2005.

This application was held abandoned for failure to timely file the issue fee in response to the Notice of Allowance and Issue Fee Due mailed March 15, 2002. A Notice of Abandonment was mailed September 13, 2002.

A review of the record indicates that the Notice of Allowance was mistakenly mailed to an incorrect correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the Notice of Abandonment is vacated and the holding of abandonment is withdrawn. The Notice of Allowance mailed March 15, 2002 is vacated.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability. The period for paying the issue fee will be set to run three months from the mailing date of the new notices. The delay in treating the petition is regretted.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of
William C.Y. Lee et al.
Application No. 09/625,626
Filed: July 26, 2000
Attorney Docket No. 139.136USU1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.47(a), filed February 27, 2003

The petition is **DISMISSED**.

The above-identified application was filed on July 26, 2000. At the time of filing, applicant submitted a 37 CFR 1.63 declaration signed by all of the inventors. A non-final Office action was mailed on September 27, 2002. This office action set a shortened statutory period for reply of three months.

In response, on February 27, 2003, with a request for a two month extension of time, applicant submitted a reply and a declaration under 37 CFR 1.131. The 37 CFR 1.131 declaration stated that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the September 27, 2002 rejection was based. However, the 37 CFR 1.131 declaration was only signed by joint inventor David J.Y. Lee. Applicant has filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor William C.Y. Lee. According to applicant, William C.Y. Lee has refused to return an executed 37 CFR 1.131 declaration.

However, 37 CFR 1.47 (and a petition thereunder) is only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. Where, as here, all the named inventors have executed the original oath or declaration under 37 CFR 1.63, 37 CFR 1.47 has no relevance to the application. See MPEP 201.03(b); 409.03.

Rather, MPEP 715.04 applies to the situation in hand and notes in pertinent part that (1) an affidavit or declaration filed under 37 1.131 may be signed by less than all the named inventors when the signing inventors are in fact the inventors of the subject matter of the of the claim(s) under rejection, or (2) if it is shown that a joint inventor of the claimed invention refuses to sign, the signature(s) of the remaining inventor(s) is sufficient, provided that the declaration under 37 CFR 1.131 shows completion of the invention by all the joint inventors of the claimed subject matter, or (3) the assignee of the entire interest may make the declaration under 37 CFR 1.131.

Accordingly, the file is being returned to Technology Center 2683 for treatment of the petition under 37 CFR 1.47 as part of a showing under the practice of MPEP 715.04.

Telephone inquiries concerning this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE G. Burgess

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/1/06

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/625,644 Patent No.: 6807568

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.

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

Comments: A duplication of the one submitted 4/26/06.

SPE

2153
Art Unit

SPE G. Burgess

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/26/06

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/625,646 Patent No.: 6807568

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.

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

Comments: It is a typographical error correction of Fig. 8 based on the specification at page 16, line 4.

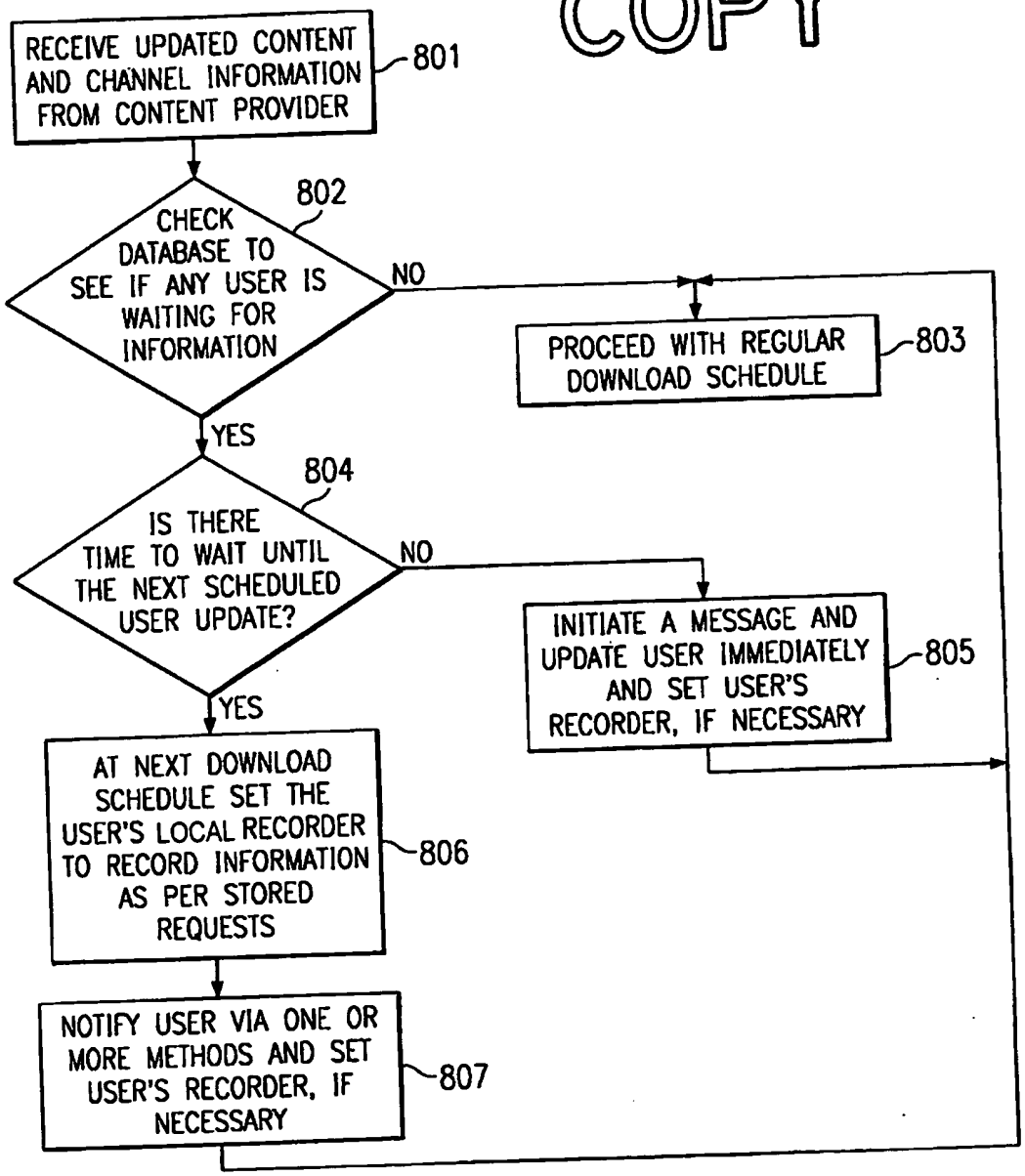
SPE

2153
Art Unit

OIPE IAP28
APR 14 2006
PATENT & TRADEMARK OFFICE

FIG. 8

COPY



OK
Approved
KC
6/21/06

2006

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,807,568

APPLICATION NO. : 09/625,646

ISSUE DATE : October 19, 2004

INVENTOR(S) : David H. Tannenbaum

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:

In the drawings, Sheet 4, Fig. 8, Indice 806, delete "LEVEL" and insert --LOCAL--.

25643443.1

MAILING ADDRESS OF SENDER (Please do not use customer number below):
David H. Tannenbaum
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784

APR 2 - 2006

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

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Rhett Drugge :
Application No. 09/625,712 :
Filed: July 26, 2000 :
Attorney Docket No. RD-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed September 10, 2002, which set an one (1) month period for response. Accordingly, this application became abandoned on October 11, 2002.. A Notice of Abandonment was mailed on July 1, 2003.

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

The file is being forwarded to Technology Center 3700 for review of the response, filed June 17, 2005, *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. None

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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APR 20 2005

OFFICE OF PETITIONS

In re Application of
Hideto Horikoshi et al.
Application No. 09/625,762
Filed: July 26, 2000
Attorney Docket No.: JA919990082US1
Title: METHOD AND COMPUTER FOR REMOTE COMMUNICATION WHILE OPERATING IN A POWER-SAVING MODE

DECISION ON PETITION

This is a decision on the petition filed October 5, 2004, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed October 23, 2003, which set a shortened statutory period for reply of three (3) months. On November 3, 2003, an amendment was received, and on April 29, 2004, an advisory action was mailed which indicated that the amendment failed to place the application in condition for allowance. Accordingly, the above-identified application became abandoned on April 24, 2004. On May 17, 2004, an Appeal Brief was received, and on May 27, 2004, a Notice of Appeal was filed. On July 26, 2004, a second Notice of Appeal was filed. On September 28, 2004, a Notice of Abandonment was mailed.

With the instant petition, Petitioner has submitted the petition fee and a statement of facts.

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner has met requirements (1) and (2) above. The fees associated with the filing of a Notice of Appeal and an Appeal Brief have been charged to Petitioner's Deposit Account, as authorized in the respective filings. The fourth requirement is not applicable.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Nonawareness of a PTO rule will not constitute unavoidable delay[8]The burden of showing the cause of the delay is on the person seeking to revive the application[9].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

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[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 CFR § 1.116 Amendments after final action or appeal.

(a) An amendment after final action or appeal must comply with § 1.114 or this section.
(b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§1.949) in an inter partes reexamination filed under § 1.913, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section.

---

8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.
(d) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 1.196 or § 1.977.

[24 FR 10332, Dec. 22, 1959; 46 FR 29183, May 29, 1981; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (b) and (d) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001]

37 C.F.R. § 1.134: Time period for reply to an Office action.

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

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

37 CFR §1.135: Abandonment for failure to reply within time period.

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

MPEP706.07(f), Time for Reply to Final Rejection, sets forth in part:

The time for reply to a final rejection is as follows:

(A) All final rejections setting a 3-month shortened statutory period (SSP) for reply should contain one of form paragraphs 7.39, 7.40, 7.40.01, 7.41, 7.41.03, or 7.42.09 advising applicant that if the reply is filed within 2 months of the date of the final Office action, the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later. Thus, a variable reply period will be established. In no event can the statutory period for reply expire later than 6 months from the date of the final rejection.

Application of the standard to the current facts and circumstances

On October 23, 2003, a final rejection was mailed. On November 3, 2003, an amendment was received, and on April 29, 2004, an advisory action was mailed. Petitioner asserts that the abandonment was unavoidable since more than 6 months passed between the mailing of the final rejection and his receipt of the advisory action.

This argument is not persuasive.

It is clear from rules 37 C.F.R. §§1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment.

If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance:
- a Notice of Appeal:
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable:
- a Request for Continued Examination pursuant to 37 C.F.R. §1.114, and;
- a Terminal Disclaimer, if applicable.

Petitioner did not submit the required reply to the Final office action prior to the expiration of the maximum extendable period for response. The Final office action was mailed on October 23, 2003. The submission of November 3, 2003 failed to place the application in condition for allowance. No further submissions were received prior to the expiration of the maximum extendable period of time for response, and as such, the application went abandoned.

For this reason, Petitioner is not able to characterize the abandonment as "unavoidable."

It follows that this petition must be **DISMISSED**.

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

Petitioner may also wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)[13].

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner

---

13 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.

may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[14], hand-delivery[15], or facsimile[16].

The application file will be retained in the Office of Petitions for two (2) months.

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

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

16 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of
Hideto Horikoshi et al.
Application No. 09/625,762
Filed: July 26, 2000
Attorney Docket No.: JA919990082US1
Title: METHOD AND COMPUTER FOR REMOTE COMMUNICATION WHILE OPERATING IN A POWER-SAVING MODE

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b)[1], filed May 6, 2005, 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 October 23, 2003, which set a shortened statutory period for reply of three (3) months. On November 3, 2003, an amendment was received, and on April 29, 2004, an advisory action was mailed which indicated that the amendment failed to place the application in condition for allowance. Accordingly, the above-identified application became abandoned on April 24, 2004. On May 17, 2004, an Appeal Brief was received, and on May 27, 2004, a Notice of Appeal was filed. On July 26, 2004, a second Notice of Appeal was filed. On September 28, 2004, a Notice of Abandonment was mailed.

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.

A petition under 37 C.F.R. §1.137(a) was submitted on October 5, 2004, which was dismissed via the mailing of a decision on April 20, 2005.

Petitioner has previously submitted the Notice of Appeal and the Appeal Brief. With the present petition, Petitioner has submitted the petition fee. A terminal disclaimer is not required.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Technology Center 2600 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Harness Dickey & Pierce P L C
P O Box 828
Bloomfield Hills, MI 48303

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Chiyoaki Iijima	:	
Application No. 09/625,769	:	ON PETITION
Filed: July 26, 2000	:	
Attorney Docket No. 9319S-000142	:	

This is a decision on the petition, filed October 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2871 for further processing of the request for continued examination under 37 CFR 1.114 filed October 4, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

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

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MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Boche, Hartmut	:	
Application No. 09/625,792	:	ON PETITION
Filed: July 26, 2000	:	
Attorney Docket No. 02581-P0316A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 29, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 30, 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 processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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986 BEDFORD STREET
STAMFORD CT 06905-5619

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JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Boche, Hartmut	:	
Application No. 09/625,792	:	DECISION ON PETITION
Filed: July 26, 2000	:	
Attorney Docket No. 02581-P0316A	:	

This is a decision on the petition, filed December 7,2007, 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 **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 25, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 15, 2007.

Petitioner asserts that the Office action dated April 25, 2007 was not received.

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 the practitioner at the address of record. This presumption may be overcome by 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 non-received Office action would have been entered had it been received 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 petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This matter is being referred to the Technology Center technical support staff of Art Unit 3764 for re-mailing the Office action of April 25, 2007. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/08

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 09625824 Patent No.: 6636259 B1

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

SPE [signature] Art Unit 2622

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JAN 28 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

UNITED STATES PATENT & TRADEMARK OFFICE #10

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

Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, VA 22102

In re application of
Denis Khoo et al
Application No. 09/625,832
Filed: July 26, 2000
For: METHOD AND SYSTEM FOR ORDERING AN ADVERTISING SPOT OVER A DATA NETWORK

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on November 5, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed November 5, 2002 fails to meet requirement (D) above. Although an Information Disclosure Statement has been filed, a copy of each of the references is not in the file.

For the above stated reason, the petition is DISMISSED.

Petitioner is given one opportunity to perfect the petition. 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 supplement this petition by a declaration or statement giving the information as outlined above.

SUMMARY: Petition to Make Special **DISMISSED**.

Keneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703)308-0866

kjd: 1/22/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Pillsbury Winthrop, LLP
P.O. Box 10500
McLean, VA 22102

Paper No. 12

In re application of
Denis Khoo et al.
Application No. 09/625,832
Filed: July 26, 2000
For: METHOD AND SYSTEM FOR ORDERING AN ADVERTISING SPOT OVER A DATA NETWORK

: **DECISION ON RENEWED**
: **PETITION TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on March 4, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

A petition to make special was filed on November 5, 2002. That petition was dismissed in a decision mailed January 28, 2003 wherein it was held that the petition did not meet requirement (D) above.

Since the requirement lacking in the original petition of November 5, 2002 has now been supplied, all the items above required for special status under MPEP § 708.02 VIII have been met, 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 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**.

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

SNM/tpl: 4/17/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MOTOROLA INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of :
Robert Wallace :
Application No. 09/625,873 : ON PETITION
Filed: July 26, 2000 :
Attorney Docket No. CX099034 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance And Fee(s) Due and Notice of Allowability mailed August 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 15, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer required pursuant to 37 CFR 1.137(d). This petition lacks item (1) above.

As to item (1), the issue fee has been received. There is, however, no indication that corrected formal drawings as required by the Notice of Allowability of August 12, 2005 have been

submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

Any petition under 37 CFR 1.137(b) must be signed by one of the following: a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); a registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; an assignee as provided for under § 3.71(b); or 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 presumably not signed by such a registered practitioner because there is not a registration number associated with the signature of "Lawrence T. Cullen." Nor can this name be found in the USPTO database of active registered practitioners.

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

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

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

By fax: (571) 273-8300

The Change of Correspondence Address filed January 10, 2006 has not been entered.

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

Wan Laymon

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

cc: LAWRENCE T. CULLEN
MOTOROLA INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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JAN 1 0 2007

OFFICE OF PETITIONS

In re Application of :
WALLACE :
Application No. 09/625,873 :
Filed: July 26, 2000 :
Attorney Docket No. CX099034 :

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed April 11, 2006, to revive the above-identified application[1].

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee and corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 15, 2005 (November 12, 2005 being a Saturday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the reply in the form of (1) the issue fee and corrected drawings; (2) the petition fee; and (3) the statement of unintentional delay have been received. Accordingly, the issue fee payment and corrected drawings are accepted as having been unintentionally delayed.

The address given on the petition differs from the address of record. The Change of Correspondence Address Application filed January 19, 2006 is not acceptable because it does not comply with 37 CFR 1.33(a)(2), which states a correspondence address may be changed by the parties set forth in 37 CFR 1.33(b), except for paragraph (b)(2). Practitioners associated with Customer Number 22917 have been given power of attorney for the above-identified application. Mr. Cullen (Registration Number 44,489) is not associated with Customer Number 22917 and, thus, is not one of the parties listed in 37 CFR 1.33(a)(2) that can change the correspondence address for the above-identified application. If appropriate, a change of address should be filed in accordance with 37 CFR 1.33(a)(2) and MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

[1] The petition's heading includes U.S. Application No. 09/827,807, while other papers submitted on April 11, 2006 refer to U.S. Application No. 09/625,873. It is assumed that April 11, 2006 petition was a renewal of the petition to revive U.S. Application No. 09/625,873. If this is an incorrect assumption, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Office of Patent Publication.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: Larry Cullen
Motorola Connected Home Solutions
101 Tournament Drive
Horsham, PA 19044

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

UNITED STATES SURGICAL CORP
150 GLOVER AVENUE
NORWALK CT 06856

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Mastri, et al.
Application No. 09/625,886
Filed: July 26, 2000
Attorney Docket No. 1695 CIP CON

DECISION ON PETITION

This is a decision on the petition filed on May 11, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance, mailed September 26, 2000. This Notice set a statutory period of three (3) months from the mailing date of the notice for fee transmittal. The three-month statutory period for paying issue fees cannot be extended. No issue fee having been received, the above-identified application became abandoned on December 27, 2000. A Notice of Abandonment was mailed on February 13, 2001.

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

Although petitioner did file a Request for Continued Examination (RCE) together with the RCE fee and an amendment, **petitioner has failed to submit the issue fee** as required by the Notice of Allowance. Whenever a case becomes abandoned for failure to pay the issue fee, the issue fee must be part of any reply.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this decision should be

addressed as follows:

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

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

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

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

for D Wood

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

cc: Christopher G. Trainor
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

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AUG 6 2001

OFFICE OF PETITIONS
A/C PATENTS

UNITED STATES SURGICAL CORP
150 GLOVER AVENUE
NORWALK , CT 06856

In re Application of
Dominick L. Mastri, et al.
Application No. 09/625,886
Filed: July 26, 2000
Attorney Docket No. 1695 CIP CON

DECISION ON
RENEWED PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 28, 2001, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1240.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 26, 2000. The Notice set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on December 27, 2000. A Notice of Abandonment was mailed on February 13, 2001. A petition under 37 CFR 1.137(b) was first filed on May 11, 2001, but the petition was dismissed on May 24, 2001, because petitioner failed to remit the issue fee as required.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The issue fee of $1240.00 was received on July 25, 2001, and is accepted.

Form PTOL-85B, filed July 25, 2001, is acknowledged and made of made of record.

The application is being forwarded to Technology Center 3700 for review of the Request for Continued Prosecution originally filed May 11, 2001.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Paul J. Farrell
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, New York 11553

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR -2 2004

Paper No. 15

In re Application of
Dominick L. Mastri *et al*
Application No. 09/625,886
Filed: July 26, 2000
Attorney Docket No. 1695 CIP CON 3

DECISION ON PETITION

This is a decision on the petition filed on November 21, 2003. The petition has been referred to the undersigned by the Office of Petitions for consideration pursuant to 37 CFR 1.181 as a petition to withdraw the holding that this application stands abandoned for failure to file a reply to the Office letter dated August 9, 2001. No fee is required for the petition under 37 CFR 1.181. The fee submitted under 37 CFR 1.137(b) is being held in abeyance.

The petition under 37 CFR 1.181 is dismissed.

Petitioners state that they in fact filed a reply to the Office letter in question, and have furnished a copy thereof which has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated September 10, 2001. In addition, petitioners have submitted a copy of a post card receipt for the reply showing that it was actually received in the Office on September 13, 2001.

However, September 10, 2001 is outside of the date for filing a reply to the Office letter in question as set therein. The record does not show that there was a general authorization to charge all necessary fees or all fees under 37 CFR 1.17 or any extension of time fees. The record also does not show any written request to treat the filing of a reply as a petition for an extension of time. The reply filed on September 13, 2001 does not contain a request for extension of time or authority to charge an extension of time fee. Accordingly, it appears on that on the current record, the application was properly held to have become abandoned.

This application is being returned to the Office of Petitions for consideration of the petition filed under 37 CFR 1.137(b) on November 21, 2003 as a petition to revive this application under 37 CFR 1.137(b).

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

United States Surgical Corp.
150 Glover Avenue
Norwalk, CT 06856

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ALEXANDRIA, VA 22313-1450
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MAR 26 2004

Paper No. 16

In re Application of
Dominick L. Mastri *et al*
Application No. 09/625,886
Filed: July 26, 2000
Attorney Docket No. 1695 CIP CON 3

: SUPPLEMENTAL DECISION
: ON PETITION

This is a supplemental decision on the petition filed on November 21, 2003. The supplemental decision is being generated as a result of a telephone inquiry by counsel concerning the original decision on petition dated March 2, 2004 by which the petition filed on November 21, 2003.

The decision on petition dated March 2, 2004 is hereby vacated and the petition is granted.

Petitioners requested that the holding of abandonment for failure to file a proper and timely reply to the Office letter dated August 9, 2001 be withdrawn in view of the fact that they had filed a reply to that Office letter. Petitioners had attached to the petition a copy of the reply, and the reply had affixed thereto a 37 CFR 1.8(a) certificate of mailing dated September 10, 2001. In addition, petitioners have submitted a copy of a post card receipt for the reply showing that it was actually received in the Office on September 13, 2001.

While September 13, 2001 is a date outside of the period for filing a reply as set by the Office letter dated August 9, 2001, September 10, 2001 was a Monday, and therefore was a date within the reply period set by the Office letter in question as set therein. See 35 USC § 21(b); see also 37 CFR 1.7 and 37 CFR 1.8(b). As a timely reply to the Office letter dated August 9, 2001 was in fact filed, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on September 13, 2001, certificate of mailing date September 10, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

United States Surgical Corp.
150 Glover Avenue
Norwalk, CT 06856

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ALEXANDRIA, VA 22313-1450
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CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE, NY 11747

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APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Mastri et al.	:	
Application No. 09/625,886	:	ON PETITION
Filed: July 26, 2000	:	
For: SURGICAL STAPLER	:	

This is a decision on the Petition for an Unintentionally Delayed Benefit Claim Pursuant to 37 CFR 1.78(a)(3), filed January 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior filed nonprovisional application, number 08/546,253, filed October 20, 1995, which is properly treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), for correction of the claim of priority in the above-identified application.

This Petition is hereby **dismissed as moot**.

Applicable Law

The instant application was filed on July 26, 2000. Petitions under 37 CFR 1.78(a)(6) for acceptance of a delayed priority claim under 35 U.S.C. § 119 and under 37 CFR 1.78(a)(3) for acceptance of a delayed priority claim under 35 U.S.C. § 120 are only applicable to those applications filed on or after November 29, 2000. See MPEP § 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the petition fee, $1370.00, has been refunded to Petitioner's Deposit Account as authorized in the instant petition.

The application file is being referred to Technology Center Art Unit 3721 for processing of the amendment.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Telephone inquiries concerning this matter should be directed to the Attorney Advisor Derek L. Woods at (272) 571-3232.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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Paper No. 21

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OFFICE OF PETITIONS

Mark A Smith
c/o Shell Oil Company
Intellectual Property
PO Box 2463
Houston TX 77252-2463

In re Application of
Donald Wayne Allen et al.
Application No. 09/625,893
Filed: July 26, 2000
Attorney Docket No. TH1258 (US)
Title: SMOOTH SLEEVES FOR DRAG AND VIV REDUCTION OF CYLINDRICAL STRUCTURES

DECISION ON PETITION

This is a decision on the petition filed on September 11, 2003, pursuant to 37 C.F.R. §1.137(b)[1, 2] to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 11, 2003, which set a shortened statutory period for reply of three (3) months. On August 26, 2003, a response was received (which contained a certificate of mailing dated August 19, 2003), along with a three-month extension of time. As August 19, 2003 was subsequent to the maximum extendable period for reply, the amendment was not entered. As such, the above-identified application became abandoned on August 12, 2003.

---

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 Although the petitioner cited to 37 C.F.R. §1.137(a) in the title of his petition, the text of the petition makes it clear hat this was a typographical error.

With the instant petition, the petitioner has filed the petition fee and has made the proper statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to technology Center 3600 for consideration of the amendment received on August 26, 2003.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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

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Commissioner for Patents
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P.O. Box 1450
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Patrea L. Pabst
Pabst Patent Group LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

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JUL 23 2007
OFFICE OF PETITIONS

In re Application of	:	
Hans Josef Stauss et al.	:	
Application No. 09/625,963	:	DECISION ON PETITION
Filed: July 26, 2000	:	TO WITHDRAW
Attorney Docket No. VOS-205	:	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 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Pabst Patent Group LLP has been revoked by the assignee of the patent application on April 3, 2007. 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Olson & Hierl, Ltd.**
20 North Wacker Drive
36th Floor
Chicago, IL 60606

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Paper No. 5

JOHN M PAOLINO
BAYER CORPORATION
511 BENEDICT AVENUE
TARRYTOWN, NY 10591

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OFFICE OF PETITIONS

In re Application of	:	
Frederick E Mootz et al	:	
Application No. 09/626,066	:	ON PETITION
Filed: July 26, 2000	:	
Attorney Docket No. MST-1997.1CUP Handling su	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 9, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technology Center AU 1743.

Wan Laymon

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

cc: PHILIP RODMAN
7-11 SOUTH BROADWAY
WHITE PLAINS, NY 10601

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FROM DIRECTOR'S OFFICE

JUL 26 2004

TECHNOLOGY CENTER

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Adam M. Gersting
Application No. 09/626,100
Filed: July 26, 2000
For: METHOD AND SYSTEM FOR CONTENT MANAGEMENT ASSESSMENT, PLANING AND DELIVERY

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) & B) above.

As to condition A), it is noted that the assignment certificate filed July 26, 2000 under 37 CFR 3.73(b) is improper since it lacks specifying the reel and frame number. Therefore, the assignee does not have power to appoint a power of attorney.

As to condition B), the reason "transfer to new counsel", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

KJD/vdb: 7/15/04

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NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Simon Jobson et al	:	
Application No. 09/626,157	:	DECISION GRANTING PETITION
Filed: July 26, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 608-216	:	

This is a decision on the petition, filed June 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,110,969
Issue Date: 09/19/2006
Application No. 09/626,205
Filed: 07/26/2000
Title: METHODS AND SYSTEMS FOR ELECTRONIC ORDER ROUTING (CORS)

ON PETITION

This is a decision on the petition filed August 20, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Citibank, N.A." Pursuant to 37 CFR 3.81(b):

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that assignments from Crossmar, Inc. to Citicorp Banking Corporation and from Citicorp Banking Corporation to Citibank, N.A. were recorded on October 23, 2006, **after the date of issuance of this patent**. As the assignment to Citibank, N.A. was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tsuyoshi Futamase et al :
Application No. 09/626,304 :
Filed: July 26, 2000 :
Attorney Docket No. 393032016800 :

This is a decision on the petition, filed May 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 March 19, 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 2837 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

JAN 30 2006

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

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of
BAUSELA ET AL.
Appl. No.: 09/626,312
now US Patent Number 6,941,849
Issue Date: 09/13/2005
Filed: July 26, 2000
For: DEVICE FOR ADJUSTING THE PHASE OF PERFORATING DEVICES AS A FUNCTION OF THE FOLDING MODE

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on the request filed November 15, 2004 to review the Notice of Non-Compliant Appeal Brief mailed September 24, 2004 in response to the Substitute Appeal Brief filed May 28, 2004. Petitioner requests that the Substitute Appeal Brief be ruled compliant, or in the alternative, to reset the period for response. Petitioner also requests a refund of the fee for the four-month extension of time necessitated by the examiner's action to hold the Substitute Appeal Brief non-compliant and to not reset the period for response. The petition is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

Petitioner's summary of the prosecution history in the background section of the present petition is substantially correct. It is also noted that the present application has subsequently issued as US Patent Number 6,941,849. The four-month extension of time was necessary due to the examiner holding the Substitute Appeal Brief non-compliant and not resetting the period for response in the letter of September 24, 2004. However, a review of the Substitute Appeal Brief indicates that appellant presented separate arguments for independent claims 1, 16, and 17. To provide the requested relief, this decision alters the letter of September 24, 2004 so that the period for response is set for one-month from the mail date of that letter. Accordingly, the four-month extension of time is unnecessary and the fees charged for the extension of time are refunded to petitioner.

Frederick R. Schmidt, Director
Technology Center 3700

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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MAILED

JAN 13 2006

Technology Center 2100

In re Application of: John S. Yates Jr., et al.	)	
Application No.: 09/626,325	)	**DECISION ON PETITION**
Filed: July 26, 2000	)	**UNDER 37 CFR §1.181 FOR**
For: OPERATING SYSTEM FOR	)	**SUPERVISORY REVIEW**
COMPUTER WITH TWO	)	
ARCHITECTURES	)	

This is a decision on the petition under 37 CFR 1.181 filed December 14, 2005 invoking the Director's supervisory review. Petitioner requests (a) withdrawal of the finality of the Office action mailed on July 19, 2005 and (b) that the Director review the objection to the specification as containing new matter.

The petition is **GRANTED-IN-PART.**

RECENT RELEVANT PROSECUTION BACKGROUND

May 2, 2005	-	RCE filed including amendments to the specification and claims.
July 19, 2005	-	Examiner mails an Office action designated as a Final Office action in which claims 31-33, 35, and 37-43 are rejected; claims 34 and 36 are objected to; and the amendment to the specification is objected to as introducing new matter into the disclosure.
September 15, 2005	-	Applicant files a paper denominated as a Petition for Review which raises the issues of whether the finality of the Office action was premature and whether the objection to the specification was proper. This paper was referred to the examiner of record to be treated as a request for reconsideration.
October 14, 2005	-	An Advisory action is mailed maintaining the Finality of the July 19 Office action and the objection to the May 2, 2005 amendment to the specification as introducing new matter.

December 14, 2005 - Applicant files the instant petition for review.

BASIS OF OPINION

The relevant sections of the Statutes, Rules and MPEP are reproduced below with emphasis added :

37 CFR §1.104. Nature of examination.

...

(b) Completeness of examiner 's action . The examiner 's action will be ***complete as to all matters***, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

MPEP §2143.03 All Claim Limitations Must Be Taught or Suggested

...

LIMITATIONS WHICH DO NOT FIND SUPPORT IN THE ORIGINAL SPECIFICATION MUST BE CONSIDERED

When evaluating claims for obviousness under 35 U.S.C. 103, all the limitations of the claims must be considered and given weight, including limitations which do not find support in the specification as originally filed (i.e., new matter). Ex parte Grasselli, 231USPQ 393 (Bd. App. 1983) aff 'd mem. 738 F.2d 453 (Fed. Cir. 1984)

MPEP §2163.06 Relationship of Written Description Requirement to New Matter

...

I. TREATMENT OF NEW MATTER

If new subject matter is added to the disclosure, whether it be in the abstract, the specification, or the drawings, the examiner should object to the introduction of new matter under 35 U.S.C. 132 or 251 as appropriate, and require applicant to cancel the new matter. If new matter is added to the claims, the examiner should reject the claims under 35 U.S.C. 112, first paragraph - written description requirement. In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). ***The examiner should still consider the subject matter added to the claim in making rejections based on prior art since the new matter rejection may be overcome by applicant.***

> In an instance in which the claims have not been amended, per se, but the specification has been amended to add new matter, ***a rejection of the claims under 35 U.S.C. 112, first paragraph should be made whenever any of the claim limitations are affected by the added material.***
>
> When an amendment is filed in reply to an objection or rejection based on 35 U.S.C. 112, first paragraph, a study of the entire application is often necessary to determine whether or not "new matter" is involved. ***Applicant should therefore specifically point out the support for any amendments made to the disclosure.***

MPEP §608.04(c) Review of Examiner's Holding of New Matter

> Where the new matter is confined to amendments to the specification, review of the examiner's requirement for cancelation is by way of petition. ***But where the alleged new matter is introduced into or affects the claims***, thus necessitating their rejection on this ground, ***the question becomes an appealable one, and should not be considered on petition*** even though that new matter has been introduced into the specification also. 37 CFR 1.181 and 37 CFR 1.191 afford the explanation of this seemingly inconsistent practice as affecting new matter in the specification.

OPINION

I. Finality of the July 19, 2005 Office action

A review of the record reveals that the May 2, 2005 amendment included significant changes to the language of independent claims 31 and 38. In paragraphs number 4-6 of the July 19 Office action the examiner rejects these claims as clearly anticipated by Hammond and relies on the rejections as set out in the October 27, 2004 Office action.

The Office action makes no mention of the new claim language. The incorporation of the previous rejection without any comment on the scope of the amended claim indicates that the amendatory language was not considered. Therefore, the action is "not complete as to all matters".

Furthermore, the Examiner states (paragraph 8.1):

> Since that definition therefore forms no part of the original specification, the claims cannot be narrowed by that definition in the specification to result in them potentially overcoming the cited prior art.

However, as directed in MPEP §2163.03, the Examiner is required to examine the application as amended. Specifically, " a rejection of the claims under 35 U.S.C. 112, first paragraph should be made whenever any of the claim limitations are affected by the added material".

Accordingly, the action mailed July 19, 2005 is incomplete and is hereby **VACATED**.

II. Propriety of the New Matter Objection

At this juncture a petition to review the new matter objection is premature. Since the Examiner did not issue a complete action it is not clear whether the Examiner is of the opinion that the "alleged new matter affects the claims". Accordingly, the request for review is **DISMISSED**.

Should the Examiner issue a new Office action which objects to the amendment to the specification as introducing new matter and also holds that the amendment does not affect the claims and therefore does not enter a rejection of any claim under 35 U.S.C. §112 based on new matter, at that point the issue will be ready for review.

CONCLUSION

The Petition is **GRANTED** to the extent that the July 19, 2005 action is **VACATED**.

The application is being forwarded to the Examiner to issue a new complete Office action treating all claims pending in the application. The action should make clear whether any claims are rejected under 35 U.S.C. § 112 and provide reasons therefor.

Any inquiries with respect to this decision may be addressed to Special Programs Examiner Pinchus M. Laufer at (571) 272-3599.

Jack Harvey

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 12

MICHAEL D. RECHTIN
FOLEY & LARDNER
330 NORTH WABASH AVENUE
SUITE 3300
CHICAGO, IL 60611

COPY MAILED

FEB 27 2002

OFFICE OF PETITIONS

In re Application of :
William Hubbard et al. :
Application No. 09/626,326 :
Filed: July 26, 2000 :
Attorney Docket No. 047542/0197 :

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 1600.

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6826696	2004-11-30	09626340	2000-07-26	2000874.00172US2

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 L. Prahl/	Date (YYYY-MM-DD)	2009-03-13
Name	Eric L. Prahl	Registration Number	32590

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. 6826696
Issue Date: November 30,2004
Application No. 09626340
Filed: July 26,2000
Attorney Docket No. 5435-07101

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

This is a decision on the electronic petition, filed March 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 13,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6497360	2002-12-24	09626345	2000-07-26	A63-004-02-US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Shawn B Dempster/	Date (YYYY-MM-DD)	2008-06-20
Name	Shawn B Dempster	Registration Number	34321

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. 6497360
Issue Date: December 24,2002
Application No. 09626345
Filed: July 26,2000
Attorney Docket No. A63-004-02-US

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

This is a decision on the electronic petition, filed June 20,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 20,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 4/6/2009
Patent No.	: 6,323,646 B1
Serial No.	: 09/626396
Inventor(s)	: Tseng
Issue Date	: December 25, 2001
Title	: **FOLDABLE CHAIR FRAME**
Doc./File No.	: **0119/6027-000**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error the addition or deletion of inventor(s), the inventors' names are printed in accordance with the Declaration and/or Supplemental Declaration. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of inventor's names, since inventors' names are printed solely in accordance with the typed/printed names (not the signatures) on the Declaration or Oath, and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 or 1.323 (required fee currently $100), unless a petition is granted. In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 (required fee currently $130) 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
P.O. Box 1450
Alexandria, VA 22313-1450

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

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

Leason Ellis LLP
81 Main Street
Suite 503
White Plains NY 10601

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 14 2009

In re Patent No. TSENG, CHUN-HSIEN
Issue Date: December 25, 2001
Appl No.: 09/626,396
Filed: July 26, 2000
For: FOLDABLE CHAIR FRAME

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed March 27, 2009 to correct inventorship under 37 CFR 1.324.

The petition is granted. [Prior papers mailed 4/06/2009 are in error and are hereby replaced by this Decision.]

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David Dunn
Supervisory Patent Examiner
Art Unit 3636
Technology Center 3600

Leason Ellis LLP
81 Main Street
Suite 503
White Plains, NY 10601

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. Five

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Chun-Hsien Tseng :
Application No. 09/626,396 :
Patent No. 6,332,646 :
Filed: July 26, 2000 :
Issue Date: December 25, :
2001 :
Attorney Docket No. :
P65803USO :
Title: FOLDABLE CHAIR FRAME :

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your submission of April 27, 2006, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R §1.28(c).

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Payment of $450 is acknowledged.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Petitioner has failed to identify the current fee amount for a non-small entity, as well as the small entity fee that was actually paid.

Therefore, the petition under 37 C.F.R §1.28(c) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.28(c)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. 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

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. Seven

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

COPY MAILED
NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of
Chun-Hsien Tseng
Application No. 09/626,396
Patent No. 6,332,646
Filed: July 26, 2000
Issue Date: December 25, 2001
Attorney Docket No. P65803USO
Title: FOLDABLE CHAIR FRAME

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your renewed petition under 37 C.F.R §1.28(c), received on October 23, 2006.

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The original petition was submitted on April 27, 2006, and was dismissed via the mailing of a decision on October 2, 2006.

With this renewed petition, Petitioner has corrected the previous deficiencies.

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 C.F.R. §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Certificate

MAY 1 4 2009

MAY 2 9 2009

of Correction

#11

In re Patent No. TSENG, CHUN-HSIEN
Issue Date: December 25, 2001
Appl No.: 09/626,396
Filed: July 26, 2000
For: FOLDABLE CHAIR FRAME

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed March 27, 2009 to correct inventorship under 37 CFR 1.324.

The petition is granted. [Prior papers mailed 4/06/2009 are in error and are hereby replaced by this Decision.]

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David Dunn
Supervisory Patent Examiner
Art Unit 3636
Technology Center 3600

Leason Ellis LLP
81 Main Street
Suite 503
White Plains, NY 10601

UNITED STATES 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. 6484106
Issue Date: November 19,2002
Application No. 09626513
Filed: July 27,2000
Attorney Docket No. M-201

:
: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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6484106	2002-11-19	09/626,513	2000-07-27	M-201

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.

OIPE JC177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

BEST AVAILABLE COPY

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.
ATTORNEYS AT LAW

Docket No.: 194668US90

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 09/626,541
Applicants: Yasushi Yamao et al
Filing Date: July 26, 2000
For: CLUSTER STRUCTURED MOBILE COMMUNCATION SYSTEM, BASE STATION, CLUSTER CONTROL STATION, LINE CONTROL STATION AND MOBILE STATION
Group Art Unit: 2662
Examiner: Mills, D.

SIR:

Attached hereto for filing are the following papers:

PETITION UNDER 37 C.F.R. 1.181
CREDIT CARD PAYMENT FORM (COPY)
INFORMATION DISCLOSURE STATEMENT (COPY)
PTO FORM 1449 (COPY)
CITED REFERENCE (1)
DATE-STAMPED FILING RECEIPT DATED APRIL 20, 2004 (COPY)

Our check in the amount of is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Bradley D. Lytle
Registration No. 40,073

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)

1940 DUKE STREET ALEXANDRIA, VIRGINIA 22314 U.S.A.
TELEPHONE: 703-413-3000 FACSIMILE: 703-413-2220 WWW.OBLON.COM

DOCKET NO: 194668US90

OIPE JC177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
YASUSHI YAMAO ET AL	: EXAMINER: MILLS, D.
SERIAL NO: 09/626,541	:
FILED: JULY 26, 2000	: GROUP ART UNIT: 2662
FOR: CLUSTER STRUCTURED MOBILE COMMUNCATION SYSTEM, BASE STATION, CLUSTER CONTROL STATION, LINE CONTROL STATION AND MOBILE STATION	:

PETITION UNDER 37 C.F.R. §1.181

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

BEST AVAILABLE COPY

SIR:

In accordance with 37 C.F.R. §1.181, Applicants respectfully request the Examiner acknowledge consideration of the publications cited in the PTO-1449 form filed with the Information Disclosure Statement (IDS) on April 20, 2004 as evidenced by the enclosed copy of the date-stamped filing receipt dated April 20, 2004. The undersigned telephoned Examiner Mills who indicated that he had not received the IDS and Examiner Mills requested that the IDS be filed again, with a copy of the date-stamped filing receipt of April 20, 2004.

Accordingly, it is respectfully requested this petition be granted and the consideration of the IDS be acknowledged.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

OIPE JC177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

Dept.: E/M
By: MM/BDL/dnf

OSMM&N File No. 194668US90
Serial No. 09/626,541
In the matter of the Application of: Yasushi YAMAO et al.
For: CLUSTER STRUCTURED MOBILE COMMUNCATION SYSTEM, BASE STATION, CLUSTER CONTROL STATION, LINE CONTROL STATION AND MOBILE STATION

Due Date: April 20, 2004

The following has been received in the U.S. Patent Office on the date stamped hereon:

- Dep. Acct. Order Form
- Information Disclosure Statement
- PTO-1449
- Cited References 2
- Japanese Office Action dated 3-26-2004

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OIPE JC25
APR 2 0 2004
PATENT & TRADEMARK OFFICE

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COPY

Docket No. 194668US90

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Yasushi YAMAO et al.

SERIAL NO: 09/626,541 GAU: 2662

FILED: July 26, 2000 EXAMINER: MILLS, D. L.

FOR: CLUSTER STRUCTURED MOBILE COMMUNCATION SYSTEM, BASE STATION, CLUSTER CONTROL STATION, LINE CONTROL STATION AND MOBILE STATION

OIPE JC177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

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SIR:
Applicant(s) wish to disclose the following information.

REFERENCES

- ■ The applicant(s) wish to make of record the references listed on the attached Japanese Office Action dated 03-26-04 and form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.
- ■ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

RELATED CASES

- ☐ Attached is a list of applicant's pending application(s) or issued patent(s) which may be related to the present application. A copy of the patent(s), together with a copy of the claims and drawings of the pending application(s) is attached along with PTO 1449.
- ☐ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

CERTIFICATION

- ■ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

DEPOSIT ACCOUNT

- ■ Please charge any additional fees for the papers being filed herewith and for which no check or credit card payment is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Masayasu Mori
Registration No. 47,301

Bradley D. Lytle
Registration No. 40,073

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 05/03)
I:\ATTY\BDL\194668US\194668 IDS.DOC

COPY

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Form PTO 1449 (Modified)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT

OIPE 6177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

ATTY DOCKET NO.	SERIAL NO.
194668US90	09/626,541
APPLICANT	
Yasushi YAMAO et al.	
FILING DATE	GROUP
July 26, 2000	2662

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
	AO	09-200846	07-31-97	JAPAN (with English Abstract)		x
	AP	11-196461	07-21-99	JAPAN (with English Abstract)		x
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner	Date Considered

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

I:\ATTY\BDL\194668US\194668 PTO 1449.DOC

COPY

OIPE JC177
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

Dept.: E/M

OSMM&N File No. 194668US90

By: MM/BDL/dfd

√Serial No. 09/626,541

In the matter of the Application of: Yasushi YAMAO et al.

For: CLUSTER STRUCTURED MOBILE COMMUNCATION SYSTEM, BASE STATION, CLUSTER CONTROL STATION, LINE CONTROL STATION AND MOBILE STATION

Due Date: N/A

The following has been received in the U.S. Patent Office on the date stamped hereon:

- Letter/Cover
- Petition under 37 CFR 1.181 with Attachments
- Deposit Account Form
- Information Disclosure Statement (copy) ■ PTO-1449 (copy)
- Cited References (1)
- Credit Card Payment Form (copy)
- Date-stamped Filing Receipt dated April 20, 2004 (copy)

OIPE JC177
MAY 2 4 2004
PATENT & TRADEMARK OFFICE
MAIL DATE CARD

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OIPE JC2D
MAY 2 7 2004
PATENT & TRADEMARK OFFICE

COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 62905

Paper No.: _____

TO SPE OF : ART UNIT 1651

9/626,566

SUBJECT : Request for Certificate of Correction on Patent No.: 6783948

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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 AMENDMENTS TO COL. 45 LINE 61 EXAMPLE 10, COLS. 47-50 FOLLOWING EXAMPLE 11, AND CLAIM 18 MAY BE NEW MATTER. RG

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell — **SPE**

1655 — **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

MARK B WILSON
FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Patent No. 7,097,988 B1	:	DECISION ON
Lei Yu	:	PATENT TERM ADJUSTMENT
Issue Date: August 29, 2006	:	AND NOTICE OF INTENT
Application No. 09/626,616	:	TO ISSUE
Filed: July 27, 2000	:	CERTIFICATE OF
Attorney Docket No.	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed October 27, 2006. Patentee requests that the patent term adjustment indicated on the patent be corrected from six hundred seventy-seven (677) days to seven hundred ninety-seven (797) days.

The petition is **GRANTED**.

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 **seven hundred ninety-seven (797)** days.

On August 29, 2006, the above-identified application matured into U.S. Patent No. 7,097,988. The instant request for reconsideration filed October 27, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of six hundred seventy-seven (677) days.

Patentee states that the patent is not subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of one hundred twenty (120) days for the submission of a "RESPONSE TO EXAMINER'S AMENDMENT" on October 6, 2005, after the Notice of Allowance was mailed on July 1, 2005.

A "RESPONSE TO EXAMINER'S AMENDMENT" 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 under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicants' "RESPONSE TO EXAMINER'S AMENDMENT" is analogous to a response to examiner's reasons for allowance, and thus is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of one hundred twenty (120) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is seven hundred ninety-seven (797) days (1129 days of PTO delay and 332 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-1212, as authorized.[2]

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 **seven hundred ninety-seven (797)** days subject to any disclaimers.

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

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

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,097,988 B1

DATED : August 29, 2006

INVENTOR(S) : Lei Yu

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 (677) days

Delete the phrase "by 677 days" and insert – by 797 days—

Day : Monday
Date: 1/29/2007

PALM INTRANET

Time: 18:01:38

PTA Calculations for Application: 09/626616			
Application Filing Date:	07/27/2000	PTO Delay (PTO):	1129
Issue Date of Patent:	08/29/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	452
Post-Issue Petitions:	0	Total PTA (days):	797
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
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57	10/14/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
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53	07/12/2005	RECEIPT INTO PUBS			
52	07/01/2005	MAIL NOTICE OF ALLOWANCE			
51	06/29/2005	ISSUE REVISION COMPLETED			
50	06/29/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	06/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
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41	11/23/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
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38	01/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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6	11/30/2000	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	07/27/2000	PRELIMINARY AMENDMENT			
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3	09/12/2000	CORRESPONDENCE ADDRESS CHANGE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 9

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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MAR 25 2004

OFFICE OF PETITIONS

In re Application of
Bingeman et al.
Application No. 09/626,648
Filed: July 27, 2000
Attorney Docket Number: LET/03X
Title of Invention: METHOD AND APPARATUS FOR CONTINUING PLAY WITH CART-BASED NAVIGATION/INFORMATION SYSTEM DISPLAY

ON PETITION

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on March 15, 2004. 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 31, 2003. A Notice of Abandonment was mailed on January 27, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Office will not engage in dual correspondence.

The Office hereby acknowledges the receipt of the Amendment submitted with the

instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Donald R. Greene
P.O. Box 12995
Scottsdale, AZ 85267-2995

UNITED STATES DEPARTMENT OF COMMERCE
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MAR 27 1997
MACMILLAN, SOBANSKI & TODD

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jc542 U.S. PTO
09/626684
07/27/00

MacMillan Sobanski and Todd
One Maritime Plaza
4th Floor
720 Water Street
Toledo, OH 43604

In re Application of :
Nachtman, Hull and O'Shea :
Application No. 08/685,202 : DECISION ACCORDING STATUS
Filed: July 23, 1996 : UNDER 37 CFR 1.47(a)
For: Sprayable Composition and :
Method for Forming a Foamed Outdoor:
Protective Cover Layer :

Papers filed on February 3, 1997 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed December 31, 1996 included:

(1) a second Declaration of Facts in Support of Filing on Behalf of Omitted Inventor (37 CFR 1.47), signed by Gary M. Sutter setting forth the last known address of Mr. O'Shea and providing proof that a copy of the application papers was mailed to Mr. O'Shea, but that repeated phone calls to Mr. O'Shea found him unavailable to come to the phone and that eventually Diane O'Shea, identified as the wife of Mr. O'Shea, stated that Mr. O'Shea was unwilling to sign the declaration.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

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

Inquiries regarding this communication should be directed to the undersigned at (703)306-3159.

Karin Tyson

Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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OFFICE OF PETITIONS

In re Application of Edwards :
Application No. 09/626,701 :
Filing Date: July 27, 2000 :
Attorney Docket No. NETAP0005 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 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 March 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 4, 2005. A Notice of Abandonment was mailed on August 26, 2005.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision so that steps can be taken to issue the application as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

Finnegan Henderson Farabow
Garrett & Dunner LLP
1300 I Street N W
Washington, DC 20005-3315

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OFFICE OF PETITIONS

In re Application of	:	
Co et al.	:	DECISION ON APPLICATION
Application No. 09/626,731	:	FOR
Filed: July 27, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. GNN-5315DV2	:	

This is a decision on the paper styled "STATEMENT REGARDING PATENT TERM ADJUSTMENT" filed June 15, 2005. Applicants agree that the initial determination of patent term adjustment under 35 U.S.C. 154(b) is zero (0) days. Applicants request that the initial determination of patent term adjustment of zero (0) days, include a period of adjustment increased by twenty-five (25) days, and a period of reduction decreased by eleven (11) days and increased by one hundred fifty (150) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days, including 0 days of Office delay and 233 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 21, 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 0 days. On June 15, 2005, applicants timely[1] submitted an application for patent term adjustment. First, applicants dispute the reduction of 11 days associated with the receipt of their response on January 7, 2002, to the restriction requirement mailed September 27, 2001. Applicants assert that their response was filed on November 7, 2001, and thus, there should be no reduction for replying outside of the three-month period. Second, applicants assert that since their response was filed on November 7, 2001, then a period of adjustment of 25 days should be entered for the Office taking until April 1, 2002 to respond. Third, applicants disclose that a period of reduction of 150 days, not 28 days, should be entered for their delay in responding to the final Office action mailed June 3, 2004. Applicants state that the date of filing of a request for continued examination (RCE) on January 31, 2005 should be used in calculating the delay, not the date of filing of a notice of appeal on October 1, 2004.

It appears that the patent issuing from the application is not subject to a terminal disclaimer.

As to the reduction of 11 days, it has been concluded that the reduction should be removed for reasons other than those stated by applicants. By Notice dated January 15, 2002, it was provided that:

> If a reply to an Office action or notice was mailed on or after October 13, 2001 and no later than December 1, 2001 (as shown on a certificate of mailing under 37 CFR 1.8), and the applicant is otherwise entitled to patent term adjustment (or additional patent term adjustment) but for the fact that there was a reduction of such patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) due to the receipt of such reply by the Office more than three business days after the date indicated on the certificate of mailing, the Office will consider the USPS mail situation discussed in this notice to constitute a sufficient showing that, in spite of all due care, the applicant was unable to reply to the Office action or notice within three months of the date of mailing of the Office action or notice. In this situation, the Office will, subject to the conditions set forth below, reinstate

[1] Office records indicate that the Issue Fee payment was received on July 20, 2005.

> a period equal to the period beginning on the date that is four business days after the date indicated on the certificate of mailing on the reply and the date of receipt (37 CFR 1.6) of the reply in the Office up to a maximum of three months.

The relevant reply was mailed on November 7, 2001, as shown by the certificate of mailing under § 1.8 thereon. However, the patent term adjustment was reduced by 11 days because the response was not received in the Office until January 7, 2002.

Thus, it is concluded that the Notice dated January 15, 2002 is applicable to this situation; in spite of all due care, the applicants were unable to reply to the Restriction Requirement within three months of the date of mailing of the notice, September 27, 2001. It is further concluded that applicants have met the other conditions set forth in the Notice for reinstatement of patent term. In this instance, the period of reinstatement is from November 14, 2001, the day that is four business days (excluding federal holidays) after November 7, 2001, to January 7, 2002, the date of receipt of the reply. This period constitutes more than 11 days, and thus, applicants are entitled to reinstatement of the entire period of reduction of 11 days.

However, applicants are not entitled to a period of adjustment for Office delay in taking action in response to the response received January 7, 2002. In this regard, 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). Thus, the date of January 7, 2002, not the certificate of mailing date of November 7, 2001, is used in determining Office delay. As the non-final Office action was mailed in response to, and within four months of, receipt of the response received January 7, 2002, there is no basis for entering a period of adjustment.

Finally, as to entering an additional reduction of 150 days, applicants are incorrect. Pursuant to § 1.704(b), a period of reduction of 28 days was properly entered for applicant delay in first filing in response to the final Office action mailed June 3, 2004, a response in compliance with 1.113(c) on October 1,

2004. Furthermore, the filing of a request for continued examination within the period for taking action after the filing of a notice of appeal does not cause entry of an additional period of reduction.

For the same reasons, the entry of a period of reduction of 170 days associated with applicants' filing of a request for continued examination (RCE) on June 26, 2003 is incorrect. In response to the final rejection mailed October 7, 2002, applicants filed a response in compliance with 1.113(c), a Notice of Appeal on April 7, 2003. Thus, the period of reduction is 90 days, counting the number of days in the period beginning on January 8, 2003 and ending on April 7, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is zero (0) days (including 0 days of Office delay and 233 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will forward the file to the Office of Patent Publication so that the patent can be issued in a timely manner.

Telephone inquiries specific to this matter 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

Attachment: Copy of Revised PAIR Screen

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OFFICE OF PETITIONS

In re Application of Ralph Heidler Application No. 09/626,804 Filed: July 27, 2000 Attorney Docket No. R-98-5670-U.1-CIP	: : : : :	DECISION ON PETITION

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed May 10, 2005.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on June 15, 2004. This notice set a statutory period for reply of three months. No issue fee and publication fee having been received, the above-identified application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on October 21, 2004.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made the proper 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.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Walter Riddle
101 S. Howard St.
Suite 11
Plant City, Florida 33563

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Paper No. 9

In re Application of	:	
Isao KANNO	:	
Application No. 09/626,870	:	ON PETITION
Filed: July 27, 2000	:	
Attorney Docket No. SANSH5.630A	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 3, 2005, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed June 7, 2002.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed June 7, 2002 for failure to respond to the non-final Office action mailed September 7, 2001 be withdrawn, as petitioner never received the non-final Office action or the Notice of Abandonment because the Office mailed these letters to the wrong address. To support this assertion petitioner has submitted: (1) a copy of the transmittal form that accompanied the application upon filing indicating a correspondence address of customer number 20,995; and (2) a copy of the Declaration and Power of Attorney indicating a correspondence address of customer number 20,995. A review of the application file indicates that the Office did not mail the non-final Office action or the Notice of Abandonment to the correspondence address provided by applicant.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Since the $500 petition fee submitted with the petition on October 3, 2005 was unnecessary in view of the failure of the Office to mail correspondence to the correct address, the $500 petition fee will be credited to petitioner's deposit account.

Application No. 09/626,780

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 3747 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

FEB 21 2001

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Michael G. Gilman
LOWE HAUPTMAN GOPSTEIN GILMAN & BERNER LLP
1700 Diagonal Road, Suite 310
Alexandria, Virginia 22314

In re Application of	:	
HERRINGTON, John F.	:	
Application No.: 09/626,886	:	DECISION ON PETITION
Filing Date: 27 July 2000	:	
Attorney Docket No.: 4394-002PCT	:	
For: RIBBED CORDED DUAL WALL	:	
STRUCTURE	:	

This is a decision on applicant's "PETITION TO REVIVE" filed 27 July 2000 in the above-captioned application.

BACKGROUND

On 29 July 1999, applicants filed international application No. PCT/US99/17172 which claimed a priority date of 12 August 1998, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 December 1999. A Demand was not filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was to expire 20 months from the priority date, i.e. **12 April 2000**.

On 27 July 2000, applicants filed the present petition accompanied by transmittal document, an executed declaration, a declaration of small entity status, and a check for $381.00. The petition requests:

(1) "withdrawal of the claim for priority from US provisional application 60/096,237 and recalculation of the due date for filing the Demand;
(2) if relief 1 is denied, revival of the instant application on the basis that its abandonment was unavoidable;
(3) if relief 1 and 2 are denied, revival of the instant application on the basis that its abandonment was unintentional."

Applicant's request for the withdrawal of the claim for priority from US provisional application 60/096,237 and recalculation of the due date for filing the Demand has been addressed with Form PCT/RO/132. Applicant's request was REFUSED.

DISCUSSION

International application PCT/US99/17172 became abandoned as to the United States of America at midnight on 12 April 2000 for failure to pay the basic national fee.

A. Conflict In Filing Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.494(f):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-114 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 27 July 2000, applicant submitted a transmittal letter entitled "Utility Patent Application Under 37 CFR 1.53(b)." The submission of a transmittal letter for a "Utility Patent Application Under 37 CFR 1.53(b)" is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 27 July 2000 will be treated as a filing under 35 U.S.C. 111(a).

B. Petition under 37 CFR 1.137(a)

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied Item (1), (2) and (4).

With regard to Item (1), the proper response is the payment of the basic national fee of $345.00.

As to Item (2), the appropriate petition fee of $55.00 is required pursuant to 37 CFR 1.17(m).

With regard to Item (3), Section 711.03(c) of the Manual of Patent Examining Procedure states: "A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with

regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

The petitioner states that, "[i]t is hereby petitioned to revive the PCT application because missing the Demand due date was inadvertent and unavoidable. Missing this date was due to a docketing error as to the priority date that was being claimed. Once the error was made as of the initial filing of this PCT application, the error of filing the Demand 18 days late could not have been avoided. It is therefore urged that this application be revived on the basis that its abandonment was avoidable." However, petitioner has not provided sufficient evidence that there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition; however, do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

C. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic fee of $345.00.

As to Item (2), the appropriate petition fee of $620.00 has been submitted.

With regard to Item (3), applicant's statement that "it is hereby petitioned to revive this application because its abandonment was unintentional" does not comply with 37 CFR 1.137(b)(3). However, the statement will be accepted and construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, Petitioner is required to provide a statement to that effect.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/US99/17172 is **GRANTED**.

International application PCT/US99/17172 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 continuing application number 09/626,886. A copy of this decision will be placed in international application no. PCT/US99/17172.

International application no. PCT/US99/17172 will be returned to the PTO's abandoned files repository.

The present application will then be forwarded to Art Unit 3653 for examination in due course.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

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35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Frederick W. Ryan :
Application No. 09/626,954 :
Filed: July 27, 2000 :
Attorney Docket No. F-173 :

ON PETITION

This is a decision on the petition, filed April 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 10, 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 3629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 1 8 2006
OFFICE OF PETITIONS

In re Application of :
Tadashi Ohashi :
Application No. 09/626,965 : ON PETITION
Filed: July 27, 2000 :
Attorney Docket No. 1341.1055/JDH :

This is a decision on the petition, filed April 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2162 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

jc869 U.S. PTO
09/627029
07/27/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#3 IDS 11-13-00 R Stokes

In re Application of: : Date: July 27, 2000

Dwight L. Daniels et al. :

Docket No: SC11109ZK :

Filed: Concurrently herewith :

For: OPTICAL SEMICONDUCTOR COMPONENT AND METHOD OF MANUFACTURE

DISCLOSURE STATEMENT UNDER 37 C.F.R. 1.56

Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

SIR:

It is respectfully requested that the art listed on FORM PTO-1449 be considered in the examination of the subject application and made of record therein. A copy of the listed art is enclosed herewith.

No representation is made or intended that the listed art enclosed herewith is material to patentability of the subject patent application.

No representation is made or intended that a search has been made or that no better art than that listed is available.

Respectfully submitted,

Dwight L. Daniels et al.

Charles W. Bethards

Charles W. Bethards
Attorney for Applicant(s)
Reg. No.: 36,453
Telephone No.: (480) 441-4237
Facsimile No.: (480) 441-5220

Motorola, Inc.
Customer Number: 23330

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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NEW YORK, NY 10020-1105

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DEC 1 1 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert A. Moss et al :
Application No. 09/627,146 :
Filed: July 27, 2000 :
Attorney Docket No. MOSS-1 :

This is a decision on the petition, filed December 6, 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 October 1, 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 3711 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : January 10,2008

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/627,194 Patent No.: 6856374 B1

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

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Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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DEC 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Mason et al.	:	DECISION ON PETITION TO
Application Number: 09/627253	:	WITHDRAW HOLDING OF
Filing Date: 07/28/2000	:	ABANDONMENT
Attorney Docket Number:	:	
1322/40/2	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT," filed on November 20, 2008.

A Notice of Abandonment was mailed on November 12, 2008, stating that the application was abandoned for failure to timely file a proper reply to the final Office action mailed on April 4, 2008.

Petitioners aver that the Office issued the Notice of Abandonment in error because applicant filed a timely and proper reply to the final Office action of April 4, 2008. Specifically, petitioners assert that they timely filed a Notice of Appeal and a two (2) month extension of time on September 4, 2008.

A review of the record reveals that a Notice of Appeal and two (2) month extension of time filed on September 4, 2008, are located therein.

Receipt of the Appeal Brief filed on December 4, 2008, and one (1) month extension of time are acknowledged.

It is noted that the Notice of Appeal and Appeal Brief fees were previously paid on December 2, 2005 and June 2, 2006, respectively. As the fee amounts have increased, the difference will be charged to counsel's deposit account as authorized in the Notice of Appeal filed on September 4, 2008, and the Appeal Brief filed on December 4, 2008.

Accordingly, there is no abandonment in fact. The holding of abandonment is withdrawn and the application is restored to pending status.

This matter is being referred to Technology Center Art Unit 2416 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application
John R. Mason et al.
Application No. 09/627,253
Filed: July 28, 2000
Attorney Docket No. **1322/40/2**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed October 26, 2009. Applicant requests that the determination of patent term adjustment be corrected from 0 days to 2193 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b) to deposit account no. 50-0426.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/26/2010

Applicant	: John R. Mason	: DECISION ON REQUEST FOR
Patent Number	: 7701925	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/627,253	: OF WYETH
Filed	: 07/28/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 15 2008

OFFICE OF PETITIONS

In re Application of :
PAPARATTO et al. :
Application No. 09/627,306 : DECISION ON PETITION
Filed: July 27, 2000 :
Attorney Docket No. 194938US0X :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2002, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2005. Accordingly, the date of abandonment of this application is August 22, 2002.

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 $1280.00, (2) the petition fee of $1280.00, which has been charged to Deposit Account 04-1512 as authorized in the petition; and (3) an adequate statement of unintentional delay.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: The Dow Chemical Company
P. O. Box 1967
Midland, MI 48641-1967

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A-1

Paper No. 122004

JAN 6 2005

John P Wagner Jr.
WAGNER MURABITO & HALO LLP
Two North Market Street, Third Floor
San Jose CA 95113

In re Application of:	:	
Mackey *et al.*	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 09/627,355	:	
Filed: July 28, 2000	:	
Attorney Docket No.: **CDST-F102-2P**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 20, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by John P. Wagner, JR, on behalf of himself and all the attorneys associated with Customer No. 41066.

The request is APPROVED. There are no attorneys of record at this time. It is noted that the application is now abandoned.

All future communications from the Office will be directed to, Law Offices of Ladas & Parry, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Law Offices of Ladas & Parry LLP
5670 Wilshire Boulevard, Suite 2100
Los Angeles, CA 90036-5679

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In re Patent No. 6841463
Issue Date: January 11,2005
Application No. 09627381
Filed: July 28,2000
Attorney Docket No. 11675.76.1.1

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

This is a decision on the electronic petition, filed May 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 21,2010 . 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)
6841463	2005-01-11	09627381	2000-07-28	11675.76.1.1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-05-21
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE T. Black

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/17/06

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/627,401 Patent No.: 6980964

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 look at claim 2.

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: Original claim 2 (7/07/2000) should be printed. Claim 2 with un-intention errors by applicant was carried along from 2/20/2003.

SPE

3661
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

Sunil Pandit
353 W. Side Drive, Apt. 202
Gaithersburg, Maryland 20878

In re Application of
Keith, Little, Van Eerdewegh, Dupuis, Del Mastro, Simon, Allen, and Pandit
Application No. 09/627,465
Filed: July 28, 2000
Title: NOVEL HUMAN GENES RELATED TO RESPIRATORY DISEASE AND OBESITY

Dear Mr. Pandit:

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 Lesley Morris at (703) 306-0028. 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

Richard C. Komson
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053

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

Richard C. Komson
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053

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JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Keith, Little, Van Eerdewegh, Dupuis,
Del Mastro, Simon, Allen, and Pandit
Application No. 09/627,465
Filed: July 28, 2000
Title: NOVEL HUMAN GENES
RELATED TO RESPIRATORY DISEASE
AND OBESITY

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 3, 2001.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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.

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

Telephone inquiries regarding this decision should be directed to Lesley Morris at (703) 306-0028.

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6568327
Issue Date: May 27,2003
Application No. 09627538
Filed: July 28,2000
Attorney Docket No. 0088-P02258US0

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

This is a decision on the electronic petition, filed June 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6568327	2003-05-27	09627538	2000-07-28	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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	/Nina Ringel/	Date (YYYY-MM-DD)	2008-06-24
Name	Nina Ringel		
Enter Reel and Frame Number		Remove	
Reel Number	017034	Frame Number	0417
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Oral Caglar
SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 South Hope Street, 48th Floor
Los Angles, CA 90071-1448

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AUG 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Hyun Jin Kim, et al. :
Application No. 09/627,591 : ON PETITION
Filed: July 28, 2000 :
Attorney Docket No. EKM-74139 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed September 18, 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 November 19, 2000.

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN - 6 2004

Jennifer K. Rosenfield
Intellectual Property Practice Group of
Edwards & Angell, LLP
P. O. Box 9169
Boston, MA 02209

In re Application of	:	
S. Denmeade, et al	:	
Serial No.: 09/627,600	:	Decision on Petition
Filed: July 28, 2000	:	
Attorney Docket No.: 57109 (71699)		

This is in response to applicants' "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181" filed on September 4, 2003.

On July 3, 2002, a Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure was mailed to applicant. On June13, 2003, a Notice of Abandonment for failure to timely respond to the Office action mailed on July 3 2003. This appears to be a typographical error, and should be July 3, 2002. On September 4, 2003, the present petition was filed.

Applicant's statement and evidence and the application history have been carefully considered and reviewed. There was an entry of "CRF does not match application specification" entered on July 30, 2002. The entry indicates that there was a CRF filed. A second sequence letter should have been mailed requesting a correct CRF. There was an entry of "CRF is good and entered" on June 5, 2003. Apparently, a miscommunication occurred between the Office and applicants. Applicant's evidence shows that a response has been timely filed in response to the Notice mailed on July 3, 2002. Accordingly, the petition is granted.

Petition GRANTED.

Should there be any questions with respect to this decision, please contact Cecilia sang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang for
Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE
J46/G4
SAN JOSE, CA 95141[1]

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of Lightstone et al. Application No. 09/627,662 Filed: July 28, 2000 Atty Docket No. CA990022US1	ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "PETITION ON PATENT TERM ADJUSTMENT HISTORY" filed March 7, 2005. Applicants request correction of the date of filing of an Appeal Brief and any adjustment to the patent term if necessary.

The request is **dismissed**.

Filing of a petition or an application for patent term adjustment is not the proper avenue for correcting papers or dates recorded incorrectly. As stated in MPEP 2732,

> If the papers or dates are recorded incorrectly, applicant should contact the examiner, the examiner's supervisor or the Technology Center customer service representative to have the entry corrected.

Whereas if applicants are contesting the determination of patent term adjustment at the time of the mailing of the notice of allowance, applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but

[1] It is noted that subsequent to the filing of the instant paper, which included a request that all correspondence be directed to the law firm of Konrad Raynes & Victor LLP the Office received a change of correspondence address to the IBM address used in this correspondence.

> may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant request was filed after the mailing of the notice of allowance and prior to payment of the issue fee. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

The Publishing Division has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter 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

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INTERNATIONAL BUSINESS MACHINES CORP.
IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Sam S. Lightstone et al	:	
Application No. 09/627,662	:	DECISION GRANTING PETITION
Filed: July 28, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CA990022US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 5, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed January 5, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee $1,400; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEFFERT JAY & POLGLAZE PA
P O BOX 581009
MINNEAPOLIS, MN 55458-1009

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OFFICE OF PETITIONS

In re Application of	:	
Frank F. Roohparvar	:	
Application No. 09/627,682	:	DECISION GRANTING PETITION
Filed: July 28, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 400.008US01	:	

This is a decision on the petition, filed October 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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)
6,382,451	2002-05-07	09627698	2000-07-28	15065-2

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	/Shawn D. Jacka/	Date (YYYY-MM-DD)	2007-05-28
Name	Shawn D. Jacka	Registration Number	43379

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. 6382451
Issue Date: May 7,2002
Application No. 09627698
Filed: July 28,2000
Attorney Docket No. TOR5887

:

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

:

This is a decision on the electronic petition, filed May 29,2007 ,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 29,2007 . 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.

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)
6347761	2002-02-19	09627715	2000-07-28	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey A. Proehl/	Date (YYYY-MM-DD)	2010-07-14
Name	Jeffrey A. Proehl	Registration Number	35987

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

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

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

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

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

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

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

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

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UNITED STATES 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. 6347761
Issue Date: February 19,2002
Application No. 09627715
Filed: July 28,2000
Attorney Docket No. 00-0490

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

This is a decision on the electronic petition, filed July 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 19,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Tomoko Oyabu	: DECISION ON REQUEST FOR
Patent Number	: 7587731	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/627,725	: OF WYETH
Filed	: 07/28/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE JC79
FEB 02 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J2

Paper No. 11

THOMAS HOXIE
NOVARTIS CORPORATION
PATENT AND TRADEMARK DEPT
564 MORRIS AVENUE
SUMMIT, NJ 07901-1027

DEC 2002
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Linda C. Rothwell
Patent

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DEC 17 2002
OFFICE OF PETITIONS

In re Application of :
Jens Hopken et al :
Application No. 09/627,807 : ON PETITION
Filed: July 28, 2000 :
Attorney Docket No. CI/V-31100A :

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2002, 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 January 29, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 30, 2002.

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

The application file is being forwarded to Publishing Division.

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

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CASE CL/V-31100A/CVA

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Jennifer China	Jennifer China	January 22, 2004
Type or print name	Signature	Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF
HOPKEN ET AL.
APPLICATION NO: 09/627,807
FILED: JULY 28, 2000
FOR: ORGANIC POLYMERS

Examiner:
KUO-LIANG PENG
Art Unit: 1712

RECEIVED
FEB 0 4 2004
OFFICE OF PETITIONS

Assistant Commissioner for Patents
Alexandria, Virginia 22313-1450

LETTER INQUIRING ISSUE NOTIFICATION

Sir:

More than one year ago, Applicants received a letter from Office of Petition, mailed on December 17, 2002 and stated that Applicants' petition under 37 CFR 1.137(b) to revive the above-identified application was granted (please see a copy of the letter enclosed herein). Although that letter stated that the application file is being forwarded to Publishing Division, Applicants have not received yet the Issue Notification to notify Applicants the patent number and issue date of the above-identified application. Please inform Applicants the issue status of the above-identified application.

A copy of the letter from Office of Petition is enclosed herewith.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,

Jian S. Zhou
Reg. No. 41,422
(678) 415-4691

Date: 01/22/2004

CIBA Vision
Patent Department
11460 Johns Creek Parkway
Duluth, GA 30097

UNITED STATES 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. 6608708
Issue Date: August 19,2003
Application No. 09627815
Filed: July 28,2000
Attorney Docket No. 004524.P008

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

This is a decision on the electronic petition, filed April 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,608,708	2003-08-19	09/627,815	2000-07-28	026544-001000US

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	/Stephen F. Jewett/	Date (YYYY-MM-DD)	2008-04-02
Name	Stephen F. Jewett	Registration Number	27565

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 8

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JUN 12 2003

OFFICE OF DIRECTOR
GROUP

Owen J. Meegan
65 Dearborn Street
Salem, MA 01970

In re Application of:	:	
ZHU *et al.*	:	DECISION ON PETITION
Application No. 09/627,841	:	TO WITHDRAW HOLDING
Filed: July 28, 2000	:	OF ABANDONMENT
Attorney Docket No. MEW1855/055	:	

This is a decision on the petition filed April 21, 2003. The petition has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment in the above application. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED.**

The application was held abandoned for the failure timely file a response to an Office action mailed on August 29, 2002. A Notice of Abandonment was mailed on March 26, 2003.

Petitioner asserts that on February 28, 2003, a response was filed. In support of this assertion, petitioner has submitted a copy of the response and a copy of the itemized postcard receipt bearing a date stamp of receipt in the United States Patent and Trademark Office of March19, 2003 of an amendment and a check for $920.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above identified response filed February 28, 2003 has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for processing the response. From there, the application will be forwarded to the examiner for taking appropriate action.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,082,127	:	
Joseph Hook	:	
Issue Date: July 25, 2006	:	
Application No. 09/627,924	:	DECISION ON REQUEST FOR
Filed: July 28, 2000	:	CERTIFICATE OF CORRECTION
Attorney Docket No. P63127-USA	:	

This letter is in response to the "37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE," filed November 20, 2008, requesting correction of the patent term adjustment indicated in the patent. With respect to the patent term adjustment, patentee requests the Office to delete "684" and insert -779—.

The request is **DISMISSED**.

Patentee is given **THIRTY (30) DAYS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On July 25, 2006, the above-identified application matured into U.S. Patent No. 7,082,127 with a revised patent term adjustment of 684 days. The instant request was filed on November 20, 2008, more than two years after issuance of the patent.

Issuance of a certificate of correction under § 1.322 is permitted if an error in the patent is shown. No error in the patent has been shown. The patent term adjustment indicated in the patent reflects the patent term adjustment shown in the PALM (and presumably PAIR) system for this application. Accordingly, no certificate of correction will be issued to change the PTA under 37 C.F.R. § 1.322 (or § 1.323).

Patentees are advised that the filing of a certificate of correction is not an alternative to the procedure set forth in 37 CFR § 1.705. Patentees contesting the underlying determination, rather than an alleged printing error, have to avail themselves of the time frames stated in § 1.705(d). Moreover, § 1.705(d), states "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within 2 months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Thus, the request must be timely filed and must include payment of the required fee.

This instant request did not include the required fee for consideration pursuant to 37 CFR 1.705(d). More importantly, this request was made more than 2 years after the issuance of the patent. As such, even with the required fee, it would be appropriate to dismiss this request as untimely filed.

The Certificates of Correction branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction branch for consideration of the accompanying request for correction of errors in the patent (in Column 10, Line 18 and Column 13, Line 55 as alleged in the request for Certificate of Correction filed November 20, 2008).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Lerner, David, Littenberg, Krumholz & Mentlik
600 South Avenue West
Westfield, NJ 07090

MAY 10 2002

In re Application of:	:	
Thomas H. Distefano	:	DECISION TO ACCEPT PAPERS
Application No. 09/628,049	:	AND WITHDRAW THE
Filed: July 27, 2000	:	HOLDING OF ABANDONMENT
Docket No. THESSERA 3.0-102 II DIV	:	

This is a decision on the communication filed, via facsimile transmission, on March 15, 2002. The communication has been treated as a petition to accept papers in place of earlier submitted papers and to withdraw the holding of abandonment in the above-identified application.

The petition is **granted.**

The application was held abandoned for failure to file a proper response to the Office action mailed August 30, 2001. A Notice of Abandonment was mailed on March 12, 2002.

Petitioner asserts that on February 26, 2002, a response including an amendment and a petition for a three month extension of time was timely filed in the above-identified application in accordance with 37 C.F.R. § 1.8. To support this assertion, petitioner has submitted a copy of a response bearing a certificate of mailing under 37 C.F.R. § 1.8(a) having a date of deposit of February 26, 2002, and a copy of a return postcard which properly identifies and acknowledges receipt of the response by the U.S. Patent and Trademark Office (PTO) on March 6, 2002.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on March 6, 2002, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof.

For the above stated reason, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the communication on March 15, 2002, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for 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

09628116

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6 2005

Paper No.: _____

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6812464

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

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

Comments:

_____

_____

_____

_____

_____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Sobolewski et al	:	
Application Number: 09/628,116	:	DECISION ON PETITION
Patent: 6,812,464	:	
Attorney Docket Number: M-8821 US	:	
Filing Date: July 28, 2000	:	
Issue Date: November 2, 2004	:	

This is a decision on the petition to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction under 37 CFR 3.81 (b)[1] filed on June 8, 2005.

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

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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CLAIRVOYANTE, INC.
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14
SEBASTOPOL, CA 95472

COPY MAILED

OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Candice Hellen Brown Elliot	:	
Application No. 09/628,122	:	DECISION GRANTING PETITION
Filed: July 28, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CLRV-001	:	

This is a decision on the petition, filed October 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091006

DATE : October 06, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7,157,429

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:

Office error - corrected claim for priority presented by amendments filed 09/25/2003 and 04/22/2004, as acknowledged in the Bib Data Sheet dated 05/09/2005.

Cecilia Tsang
SPE, Art Unit 1654

UNITED STATES 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. 6218891
Issue Date: April 17,2001
Application No. 09628266
Filed: July 28,2000
Attorney Docket No. LOTFI 26-38-3-2

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

This is a decision on the electronic petition, filed April 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6218891	2001-04-17	09/628,266	2000-07-28	LOTFI 26-38-3-2

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David H. Hitt/	Date (YYYY-MM-DD)	2010-04-29
Name	David H. Hitt	Registration Number	33182

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/14/08

Patent No. :7079281
Inventor(s) : Christopher J. Edge et al.
Issued : 7/18/2006
Title : EDGE ENHANCEMENT PROCESSOR AND METHOD WITH ADJUSTABLE THRESHOLD SETTINGS
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 the title 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

Justin D. Petruzzelli
NexPress Solutions LLC
Patent Department
1447 St. Paul Street
Rochester, NY 14653-7001

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

In re Patent No. 6508608
Issue Date: January 21,2003
Application No. 09628409
Filed: August 1,2000
Attorney Docket No. 16561/4:1

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

This is a decision on the electronic petition, filed May 24,2007 ,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 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,508,608	2003-01-21	09/628,409	2000-08-01	16561/4:1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/-Kassim M. Ferris./	Date (YYYY-MM-DD)	2007-05-24
Name	Kassim M. Ferris	Registration Number	39974

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

Privacy Act Statement

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

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

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

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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#12

MAY 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Shumaker & Sieffert, P.A.
8425 Seasons Parkway
Suite 105
St. Paul, MN 55125

In re Application of
Adam Their et al.
Application No. 09/628,479
Filed: July 31, 2000
For: BUDGET PLANNING

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on January 16, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed to the applicants on May 9, 2002 wherein a three-month shortened statutory period for response was set. Since no timely response to the May 9, 2002 Office action was received, the application was held to be abandoned, and a notice to that effect was mailed on December 16, 2002.

Petitioner states that a response was filed by Samatha J. Rupert on July 11, 2002 via facsimile. The copy of the response submitted with the petition includes a Certificate of Transmission dated July 11, 2002.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission must include the following requirements:

(1) A copy of a response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement attesting to the personal knowledge of transmitting the response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

The petition fails to include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing response on the date indicated on the certificate, by the person who signed the certificate.

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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SNM/tpl: 5/22/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OCT 01 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

Paper No 15

In re Application of
Adam Their et al.
Application No.09/628479
Filed:July 31, 2000
For: BUDGET PLANNING

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

The paper filed July 7, 2003 has been treated as a Petition to Withdrawal the Holding of Abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____

☐ USPTO return facsimile receipt dated_____.

☒ Certificate of Mailing/Transmission signed on July 11, 2003. 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 examiner for appropriate action.

en/9/24/03

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6406270
Issue Date: June 18,2002
Application No. 09628521
Filed: July 31,2000
Attorney Docket No. 55180/23167

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 16,2006 ,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 October 16,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6406270	2002-06-18	09628521	2000-07-31	306592

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 D. Wylie/	Date (YYYY-MM-DD)	2006-10-16
Name	Roger D. Wylie	Registration Number	36974

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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JAN 28 2004

Paper No. 24

In re Application of
Jason Melvin *et al*
Application No. 09/628,563
Filed: July 31, 2001
Attorney Docket No. A-69175/MSS

DECISION ON PETITION

This is a decision on the petition filed on December 22, 2003 by which petitioners request withdrawal of the finality of the Office action dated June 26, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed as being untimely filed.

The record shows that the instant petition was filed almost six months after the mailing date of the final Office action. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted.

Accordingly, the application is being forwarded to the Head Supervisory Applications Examiner for processing of the Request for Continued Prosecution (37 CFR 1.114) that was filed on December 29, 2003, December 26, 2003 being both a Friday and a holiday in the District of Columbia.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Flehr Hohbach Test Albritton & Herbert LLP
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111

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Paper No. 12

DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

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GROUP

In re Application of	)	
Li Wen Liu et al.	)	DECISION ON PETITION
Application No. 09/628,567	)	
Filed: July 31, 2000	)	
Attorney Docket No. 4144	)	
For: AN IPOS TRANSACTION SYSTEM	)	

This is a decision on the petition, filed August 12, 2003, via facsimile transmission, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond a timely manner to the non-final Office action of January 16, 2003. A Notice of Abandonment was mailed on July 29, 2003.

Petitioner states that a response was timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt of an amendment and a petition for a three-month extension of time by the US Patent and Trademark Office (USPTO) on July 21, 2003. A copy of the papers filed July 21, 2003 was also submitted.

The papers filed July 21, 2003 are not of record in the application file and cannot be located[1]. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that a Response was received in the USPTO but lost after receipt thereof. The copy of

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1 Although the papers are not in the file record, the application finance record indicates that the $930.00 fee for the extension of time has been collected with an accounting date of July 23, 2003.

the amendment submitted July 21, 2003, bears a certificate of mailing under 37 CFR 1.8(a) dated July 16, 2003, which makes the response acceptable as being timely filed.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The copy of the response submitted on August 12, 2003, is accepted since the USPTO has apparently misplaced the response originally submitted.

The application file is being forwarded to the Technology Center Technical Support Staff for entry of the amendment. From there, the file will be returned to the examiner for further examination.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL

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Paper No. 4

Robert R. Sachs
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306

In re Application of: Jeff Haber	)	
Application No. 09/628,569	)	
Filed: July 13, 2000	)	**DECISION ON REQUEST FOR**
For: DIRECTING INTERNET SHOPPING	)	**WITHDRAWAL AS ATTORNEY**
TRAFFIC AND TRACKING	)	
REVENUES GENERATED AS A	)	
RESULT THEREOF	)	

This is a decision on the Request To Withdraw from Representation filed August 6, 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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: John R. Carr
Foley & Lardner
1 Maritime Plaza, Sixth Floor
San Francisco, California 94111

UNITED STATES 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 23 2005

John R. Carr
118 S. Clark Drive
Los Angeles, CA 90048

In re application of Jeff Haber Application No. 09/628,569 Filed: July 31, 2000 For: DIRECTING INTERNET SHOPPING TRAFFIC AND TRACKING REVENUES GENERATED AS A RESULT THEREOF	: : : : : : :	**DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY**

This is a decision on the request filed on April 25, 2005 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as <u>MOOT</u>**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

A review of the file indicates that John Carr, Albert C. Smith and Robert R. Sachs originally had power of attorney given them in the original declaration filed with the application.

On June 13, 2001, attorneys at Fenwick & West LLP were given power of attorney and the correspondence address changed to them.

A request to withdraw Carr, Smith and Sachs dated August 6, 2001 was granted on August 15, 2001 and the correspondence address was changed to John Carr at Foley & Lardner. However, it is not seen that the attorneys requesting this withdrawal had power of attorney at that time. Nevertheless, the correspondence address was changed.

On June 16, 2002, the change of address to John R. Carr at 118 S. Clark Drive, Los Angeles, CA 90048 was approved even though the requester, John Carr did not have power of attorney at that time.

As a result it appears that currently the attorneys at Fenwick & West still have power of attorney and the correspondence address is John Carr in Los Angeles, CA.

Therefore, the withdrawal of attorney of April 25, 2005 is not approved as moot as the requester, John Carr does not currently have power. Therefore the change of address requested in that withdrawal of attorney will not be approved.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/dew: 5/10/05

CC: Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,599	07/28/2000	Ian R. Finlay	CA919990018US1	3713

45112 7590 03/11/2008
Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

EXAMINER
LY, ANH

ART UNIT	PAPER NUMBER
2162	

MAIL DATE	DELIVERY MODE
03/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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ALEXANDRIA, VA 22313-1450
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Kunzler & McKenzie
8 East Broadway
Suite 600
Salt Lake City, UT 84111

In re Application of:	)	
FINLAY et al	)	
Application No. 09/628,599	)	**DECISION ON PETITION**
Filed: July 28, 2000	)	
For: DIRECT CALL THREADED CODE	)	

This is a decision on the petition, filed on 05 June 2007, under 37 CFR § 1.181 requesting to reinstate Appeal. A new Notice of Appeal was filed on 05 July 2007 and new Appeal Brief was filed on 23 August 2007.

The petition is **DISMISSED AS MOOT**.

On 31 October 2006 and 05 January 2007 respectively, applicant filed a Notice of Appeal and an Appeal Brief in response to the Advisory Action mailed on 08 November 2006; and on 06 April 2007, examiner Anh Ly reopened prosecution and issued an Office Action rejecting all claims 1-22 under 35 U.S.C. §§ 101 and 103(a).

A review of the application file indicates a Notice of Allowability and a Notice of Allowance and Fee(s) Due was mailed on 07 February 2008.

For the above stated reason, the petition is **DISMISSED AS MOOT**. The payment of issue fee and publication fee is due on/before 07 May 2008.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

Cc: Sandra M. Parker
Law Office of Sandra N. Parker
329 La Jolla Avenue
Long Beach, CA 90803

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 14

Tyco Technology Resources
4550 New Linden Hill Road
Suite 450
Wilmington, DE 19808-2952

OCT 27 2003

In re Application of	)	
Wayne Samuel Davis et al.	)	
Application No. 09/628,669	)	
Filed: July 28, 2000	)	DECISION ON PETITION
For: ELECTRICAL CONNECTOR WITH	)	
PROTECTION FOR ELECTRICAL	)	
CONTACTS	)	

This is a decision on the petition, filed September 10, 2003, via facsimile transmission, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to timely reply to the Final Office action of July 17, 2002. A Notice of Abandonment was mailed on July 16, 2003.

Petitioner states that a Request for Continued Examination (RCE) was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt of a RCE and a request for an extension of time of one month on January 22, 2003. A copy of the RCE filing was submitted with the petition. The RCE Transmittal letter includes an authorization to charge the requisite fees to petitioner's deposit account.

The RCE and the request for extension of time acknowledged as having been received in the USPTO on January 22, 2003, are 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 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 RCE was timely received in the USPTO but lost after receipt thereof.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The copy of the RCE submitted on September 10, 2003 is accepted since the Office has apparently misplaced the response originally submitted.

The application record indicates that a the filing fee for the RCE and the fee for a one-month extension of time have not been collected.

The application file is being forwarded to the Technical Support staff for processing the RCE and charging deposit account No. 02-0387 the appropriate fees. From there, the application file will be returned to the examiner for further examination..

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 10

BLANK ROME COMISKY & MCCAULEY LLP
THE FARRAGUT BUILDING SUITE 1000
900 17TH STREET NW
WASHINGTON DC 20006

COPY MAILED

MAR 1 3 2002

Director's Office
Office of Patent Publication

In re Application of :
David R. Williams, et al. :
Application No. 09/628,690 :
Filed: July 28, 2000 :
Attorney Docket No. 000687.00148 :

DECISION ON PETITION

This is a decision on the Petition to Withdraw Notice of Abandonment received on September 7, 2001.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee on or before July 12, 2001, as required in the Notice of Allowance.

The Petitioner states that the Issue Fee was paid on May 11, 2001. To support this assertion the petitioner has submitted copies of the Issue Fee Transmittal (Form PTOL-85B), a copy of the check for the full amount of the issue fee, and the return postcard, which acknowledges receipt of the Issue Fee on May 11, 2001, by the Patent and Trademark Office (PTO). The Issue Fee Transmittal, acknowledged as having been received in the PTO, is not of record in the application file and cannot be located. However, MPEP 503 states the following:

> 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 items listed thereon on the date stamped thereon by the PTO.

In view of the foregoing, the holding of abandonment is withdrawn.

As authorized, the Issue Fee in the amount of $1240 was charged to Deposit Account No. 23-2185.

The application will be forwarded to Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-5340.

Frederick E. Briscoe

Frederick E. Briscoe
Legal Instruments Examiner
Office of the Director
Office of Patent Publication

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Paper No. 12

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APR 30 2002

OFFICE OF PETITIONS

BLANK ROME COMISKY & MCCAULEY, LLP
THE FARRAGUT BUILDING, SUITE 1000
900 17TH STREET, NW
WASHINGTON, DC 20006

In re Application of David R. Williams, et al. Application No. 09/628,690 Filed: July 28, 2000 Attorney Docket No. 000687.00148	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(3), filed by facsimile transmission on April 29, 2002, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the present petition was not received by the appropriate official for a decision in sufficient time to avert the issuance of the application into U.S. Patent No. 6,379,005 on April 30, 2002. Any inconvenience caused petitioners is regretted.

37 CFR 1.313(d) states that "[a] petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

The file is being forwarded to Files Repository.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLANK ROME LLP
THE WATERGATE BUILDING
600 NEW HAMPSHIRE AVENUE, NW
WASHINGTON DC 20037

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JUN 14 2006
OFFICE OF PETITIONS

In re Patent No. 6,379,005 :
Issue Date: April 30, 2002 :
Application No. 09/628,690 :
Filed: July 28, 2000 :
Attorney Docket No. 000687.00148 :

DECISION ON PETITION
UNDER 37 CFR 1.378(c)

This is a decision on the petition under 37 CFR 1.378(c), filed June 13, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on midnight April 30, 2006 for failure to pay the 4th 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 3 ½ year maintenance fee of $900 along with the surcharge under 37 CFR 1.20(i)(2) of $1640 has been charged to petitioner's deposit account.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the above-identified patent unless a "fee address" (see PTO/SB/47) is submitted for the above-identified patent.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.
The patent file is being forwarded to Files Repository.

Amelia Au
Petitions Examiner
Office of Petitions

PTO/SB/66 (10-0
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERC
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Docket Number (Optional
000687-00260

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

FAX RECEIVED
JUN 13 2006
OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,379,005 Application Number 09/628,690

Issue Date April 30, 2002 Filing Date July 28, 2000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____ original application number _____. original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited wi the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelop addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimi transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date _____ Signature _____

Typed or printed name of person signing Certificate _____

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (an 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 c including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comm 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. Pa Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

06/14/2006 CKHLOK 00000007 232185 6379005

01 FC:1551 900.00 DA
02 FC:1558 1640.00 DA

PAGE 3/5 * RCVD AT 6/13/2006 2:46:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/45 * DNIS:2739900 * CSID:202 463 6917 * DURATION (mm-ss):02-42

PTO/SB/66 (10-05)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERC
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1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☑ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☑ $ 900.00	3 1/2 yr fee	(1551)	☐ $ _____	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553

MAINTENANCE FEE BEING SUBMITTED $ 900.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 130.00 (Fee Code 1558) must be paid as a con of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 130.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☑ Please charge Deposit Account No. 23-2185 the sum of $ 1030.00. A duplica copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 23-2185. A duplicate copy of this authorization is attached

PAGE 4/5 * RCVD AT 6/13/2006 2:46:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/45 * DNIS:2739900 * CSID:202 463 6917 * DURATION (mm-ss):02-42

PTO/SB/66 (10-0
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERC
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 numb

7. OVERPAYMENT

As to any overpayment made please

☑ Credit to Deposit Account No. 23-2185.

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that m contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit ca numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required the USPTO to support a petition or an application. If this type of personal information is included in documents submitted the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitti them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public af publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the applicatio or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if t application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit ca authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are r publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Signature(s) of Petitioner(s) — June 13, 2006 Date

Michael C. Greenbaum — 28,419
Typed or printed name(s) — Registration Number, if applical

202-772-5800
Telephone Number

Blank Rome LLP
Address

6000 New Hampshire Avenue, N.W., Washington, D.C., 20036
Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES:

☑ Maintenance Fee payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐

PAGE 5/5 * RCVD AT 6/13/2006 2:46:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/45 * DNIS:2739900 * CSID:202 463 6917 * DURATION (mm-ss):02-42

FAX RECEIVED

JUN 13 2006

OFFICE OF PETITIONS

BLANK ROME LLP
COUNSELORS AT LAW

FAX TRANSMITTAL FORM

Date: June 13, 2006

	TO:	FIRM:	FAX NO.:	CONFIRMATIO
	Andy Kashnikow	USPTO	571-273-9900	571-272-4361

From:	Michael C. Greenbaum
Phone:	(202) 772-5836
Fax:	(202) 572-1436
Email:	greenbaum@blankrome.com
Atty No.:	3004

# of Pages: (include cover)		5
Client/Matter #:		00068

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Will Not Follow:		Send Interoffice:	

COVER MESSAGE:

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. 571-273-9900 **) on** 6/13/06

Printed Name: Sandra Johnson

Signature: [signature]

CONFIDENTIALITY NOTE:
The documents accompanying this fax transmission contain information, which may be confidential and/or legally privileged, from the law fir Rome LLP. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not th recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this faxed i is strictly prohibited, and that the documents should be returned to this firm immediately. If you have received this in error, please notify us by immediately at the number listed above, collect, so that we may arrange for the return of the original documents to us at no cost to unauthorized disclosure, use, or publication of confidential or privileged information inadvertently transmitted to you may result in criminal liability.

TRANSMITTED BY:	DATE SENT:	TIME SENT:	TIME CALLED:
BUSY:	NO ANSWER:	WRONG NUMBER:	NO CONNECTION:

Watergate 600 New Hampshire Ave., NW Washington, DC 20037
202.944.3000 Fax: 202.944.3068

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108867.00163/35603116v.1

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MAINTENANCE FEE TRANSMITTAL FORM

Address to:
United States Patent and Trademark Office
P.O. Box 371611
Pittsburgh, PA 15250-1611

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 371611, Pittsburgh, PA 15250-1611" on June 13, 2006.

Signature _____

Typed or printed name _____

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. ☐ A check for the amount of $ _____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
2. ☒ The Director is hereby authorized to charge $ 1030.00 to cover the payment of the fee(s) indicated below to Deposit Account No. 23-2185. A duplicative copy of this form is enclosed.
3. ☒ 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. 23-2185. A duplicative copy of this form is enclosed.
4. ☐ Payment by credit card. Form PTO-2038 is attached.

* Information required by 37 CFR 1.366(c) (columns 1 & 4). Information requested under 37 CFR 1.366(d) (columns 2, 3, & 5)

Item	Patent Number* Column 1	Maintenance Fee Amount (37 CFR 1.20 (e)-g)) Column 2	Surcharge Amount (37 CFR 1.20 (h)) Column 3	U.S. Application Number* [e.g., 06/555,555] Column 4	Payment Year Column 5		
					3.5 yrs	7.5 yrs	11.5 yrs
1	6,379,005	$900.00	$130.00	09/628,690	X		
2							
3							
4							
5							
6							
Subtotals: Columns 2 & 3		$900.00	$130.00				
Total Payment		$1030.00					

☐ _____ additional sheets attached for listing additional patents.

WARNING:
Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038

Respectfully submitted, **
Customer's Signature:
Customer's name: Michael C. Greenbaum, Reg. No. 28,419 Registration Number, if applicable: v
Telephone: (202) 772-5800 Fax:: (202) 772-5858

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. 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 1.14. This collection is estimated to take 0.3 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 371611, Pittsburgh, PA 15250-1611.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Boucher	:	DECISION ON APPLICATION
Application No. 09/628,694	:	FOR PATENT TERM ADJUSTMENT
Filed: July 28, 2000	:	
Atty. Dkt. No.: 06502.0230	:	

This is a decision on the "NOTICE OF ERROR IN THE DETERMINATINO OF PATENT TERM ADJUSTMENT"" filed December 8, 2004. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 501 days, as indicated on the Determination of Patent Term Adjustment mailed November 19, 2004, to an adjustment of 562 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 600 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 560 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. A further adjustment of 40 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) for failure to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken.

The adjustment of 600 days is properly reduced 37 days in accordance with 37 CFR 1.704(c)(8) for submission of a supplemental reply or other paper (to wit, IDS filed July 24, 2003), other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed.

Applicant argues that the adjustment was improperly reduced an additional 62 days in connection with applicant's response to the

final Office action mailed September 10, 2003. Applicant's argue that a response to the final Office action was timely submitted December 9, 2003 and have submitted as proof of receipt of said response a copy of a postcard date-stamped by the USPTO. In view thereof, the reduction of 62 days in connection with applicant's reply to the final Office action was in error.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 563 days, as argued by applicant.

The required Patent Term Adjustment application fee of $200.00 has been charged to Deposit Number 06-0916, as authorized in the instant application for Patent Term Adjustment.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

KDS Usted Pair Calculator

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6931587	2005-08-16	09628729	2000-07-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Philip R. Krause/	Date (YYYY-MM-DD)	2009-10-15
Name	Philip R. Krause		

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. 6931587
Issue Date: August 16,2005
Application No. 09628729
Filed: July 28,2000
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 15,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 15,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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JEAN-MARC ZIMMERMAN
226 ST. PAUL STREET
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dr. Catherine Lin Hendel Ph.D. :
Application No. 09/628,773 :
Filed: July 29, 2000 :
Attorney Docket No. Lin-Hendel 6 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action 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 August 10, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 11, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), the amendment submitted on December 5, 2005 does not *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an

amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

Attachments: Courtesy copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/628,773	Applicant(s) HENDEL PH.D., DR. CATHERINE LIN	
	Examiner Naeem Haq	Art Unit 3625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-8, 10-24, and 26*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Jeffrey A. Smith
Primary Examiner

Continuation of 3. NOTE: The After-Final amendment will not be entered because it rasies new issues that would reqiure further search and/or consideration. In particular, the Applicant has removed "means for" language from the claims and has further modified the claimed invention to recite "a plurality of independently moving graphical arrays to be displayed together..." These changes have significantly altered the scope of the claimed invention and will require further search and/or consideration.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jean-Marc Zimmerman
226 St. Paul Street
Westfield NJ 07090

COPY MAILED
DEC 29 2006
OFFICE OF PETITIONS

In re Application of :
DR. CATHERINE LIN HENDEL PH.D. :
Application No. 09/628,773 : ON PETITION
Filed: July 29, 2000 :
Attorney Docket No. Lin-Hendel 6 :

This is a decision on the **renewed** petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 10, 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)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 11, 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 $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7414.

This application is being referred to Technology Center Art Unit 3625 for processing of the RCE filed on May 1, 2006 and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Amelia Au
Petitions Examiner
Office of Petitions

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED
DEC 17 2008

In re Application of	:	
Catherine LIN-HENDEL	:	
Application No. 09/628,773	:	DECISION GRANTING PETITION
Filed: July 29, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 101156-5006US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 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 October 30, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Monica Graves
Paralegal Specialist
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Patent No. 7,542,920	:
Issued: June 2, 2009	: DECISION ON PETITION
Application No. 09/628,773	: FOR PATENT TERM ADJUSTMENT
Filed: June 29, 2000	:
Attorney Docket No. 101156-5006-US	:

This is a decision on the PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) filed on July 22, 2009, requesting that the patent term adjustment be corrected from 542 to 1425 days.

The request is **DISMISSED**.

Patentees are advised that § 1.705(d) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, § 1.705(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

An application for patent term adjustment under § 1.705 (b)(1) must be accompanied by:

(1) The fee set forth in § 1.18(e) ...

Neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

In view thereof, it is concluded that the determination of Patent Term Adjustment of five hundred forty-two (542) days will not be reconsidered until such time as a proper application for Patent Term Adjustment has been submitted.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Patent No. 7,542,920
Issued: June 2, 2009
Application No. 09/628,773
Filed: July 29, 2000
Attorney Docket No. 101156-5006-US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the CORRECTED PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) filed on April 27, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 542 days to 1425 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-two (1122) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and (a)(2) is 627 + 144 days. The "B" delay period, the over three year period however begins on July 30, 2003 and ends on April 30, 2006, the day before the filing of the Request for Continued Examination (RCE) and therefore is 1006 days.

A review of the record confirms however that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). A Notice of Allowance was mailed on August 8, 2008. Patentees filed a Request for Continued Examination (RCE) and a submission as required under 37 CFR 1.114. Prior to filing the RCE, applicant paid the Issue Fee on October 30, 2008. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and submission after the mailing of the Notice of Allowance on August 8, 2008 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 46 days, counting the number of days in the period beginning on December 12, 2008 and ending on January 26, 2009, the date of mailing of the Notice of Allowance in response.

As such, the patent term adjustment is 1122 days (771 plus 1006 minus 655 days applicant delay), not 1425 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred twenty-two (1122)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,542,920 B1

DATED : June 2, 2009

INVENTOR(S) : Catherine Lin-Hendel

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 (542) days

Delete the phrase "by 542 days" and insert – by 1122 days--

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6227668	2001-05-08	09628792	2000-07-29	177-040

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	/JDLR/	Date (YYYY-MM-DD)	2009-07-29
Name	John de la Rosa	Registration Number	34317

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. 6227668
Issue Date: May 8,2001
Application No. 09628792
Filed: July 29,2000
Attorney Docket No. 177-040

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 29,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 29,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/17/2006

TO SPE OF : ART UNIT **2600 (2626)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,035,802**

Attn: Han Qi

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to make changes as requested in COCIN in eDan/Madras?

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
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 RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/17/2006

TO SPE OF : ART UNIT **2600 (2626)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,035,802**

Attn: Han Qi

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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Ok to make changes as requested in COCIN in eDan/Madras?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER

AU 2626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB 15 2006

OFFICE OF PETITIONS

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

In re Application of :
James S. Rosen et al. :
Application No. 09/628,880 : ON PETITION
Filed: July 31, 2000 :
Attorney Docket No. COMET-003XX :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed April 7, 2005. A response was filed September 26, 2005 with a three month extension of time request however, by Advisory Action of October 14, 2005, petitioner was advised that the response did not place the application in condition for allowance. Although this application became abandoned on July 8, 2005, the instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment, filed September 26, 2005, be used as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2151 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Commissioner for Patents
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Washington, D.C. 20231
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OFFICE OF PETITIONS
A/C PATENTS

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80528-9599

In re Application of
Jeffrey B. Thompson
Application No. 09/628,919
Filed: July 31, 2000
Attorney Docket No. COCR.35US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 13, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight November 13, 2000.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of William W. Cochran II, appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Cochran 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.

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 $1390.00 extension of time submitted with the petition on May 14, 2001 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasury check.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Coram at (703) 308-6711.

Andrea Coram
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: William W. Cochran, II
3555 Stanford Road, Suite 230
Fort Collins, CO 80525

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Canada

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Director's Office
Group 3700

In re Application of :
Cargnelli et al :
Serial No. 09/628,929 : DECISION ON PETITION
Filed: July 28, 2000 :
For: METHOD AND APPARATUS FOR HUNIDIFACTION AND TEMPERATURE CONTROL OF INCOMING FUEL CELL PROCESS GAS

This application is before the Director of Groups 3740 & 3750 for reconsideration of the Notice of Abandonment mailed July 21, 2003 for failure to respond to the Office Action mailed December 11, 2002.

A review of the file indicates that a request for a five month extension of time and a response were timely filed on June 3, 2003 (improperly date stamped June 3, 2004).

Additionally, in support of the request, petitioner has also submitted a copy of a response and a copy of a PTO stamped post card receipt dated June 3, 2004 (which should have been 2003) received by fax transmittal on August 12, 2003.

In view of the above, the Notice of Abandonment mailed July 21, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A Bertsch

Richard Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764
IL

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STEVEN J. ADAMSON
P O Box 5997
PORTLAND, OR 97228

Paper No. 27
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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kenneth N. Bates
Application No. 09/628,942
Filed: July 28, 2000
Title of Invention: ACOUSTIC WAVE IMAGING APPARATUS AND METHOD

DECISION DISMISSING PETITION

This is a decision on the petition, filed June 6, 2003, under 37 CFR 1.137(a), 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 (and fee) 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 application became abandoned for failure to timely and properly reply to the final Office action, mailed October 2, 2002, which set a shortened statutory period of three months for reply. Petitioner filed an Amendment in response to the final Office action on December 30, 2002. That response, however, was not deemed to place the application in condition for allowance, as was stated in an Advisory Action mailed to Petitioner, on January 6, 2003. Petitioner filed a Request for Reconsideration, along with a request for a one (1) month extension of time to reply to the final Office Action pursuant to 37 CFR 1.136(a). In response to the Request for Reconsideration, a second Advisory Action was mailed on February 26, 2003. That Advisory Action informed Petitioner that claims 24 - 38 were allowed, but that the Amendment was not in compliance with 37 CFR 1.173(c). Petitioner filed a response to the February 26, 2003 Advisory Action on April 2, 2003; however, that response failed to place the application in condition for allowance because Petitioner still had not complied with 37 CFR 1.173. Petitioner was so notified in a third Advisory Action, mailed on April 16, 2003. Accordingly, this application became abandoned on April 3, 2003. A Notice of Abandonment was mailed on May 5, 2003.

In response to the abandonment, Petitioner files the instant petition wherein Petitioner avers that the Patent Office caused an unnecessary two month delay by initially disallowing the claims in the December 30th Amendment, and subsequently allowing the claims (in response to the Request for Reconsideration). Petitioner acknowledges that the second Advisory Action addressed the form of the Amendment, and that he was unsure of what the Examiner was requesting. The response filed April 2, 2003 "contained multiple variations of the requested supplemental paper - evidencing confusion as to the format of the appropriate response." *Petition* p.2. Because the delay was in part a result of Office error, and in part due to a good-faith misunderstanding of Petitioner, Petitioner avers the delay was unavoidable.

Applicable Law

Petitioner advised that decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Moreover, 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 of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); 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*) (Emphasis supplied).

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) a proposed response to continue prosecution of the abandoned application, or filing of a continuation application, unless either has been previously filed; (2) the petition fee required by 37 CFR 1.17(l); (3) an adequate verified showing 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)) as required pursuant to 37 CFR 1.137(c). This petition lacks items (3) above.

Analysis

Petitioner is directed to the MPEP, section 711.02, which reads:

> 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant 'fails to reply' to an office action within the fixed statutory period. This failure may result 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 (37 CFR 1.135(b)).

This section explains that abandonment occurs when petitioner fails to timely and properly reply to the outstanding Office action.

Petitioner is further directed to 37 CFR 1.135(b), Abandonment For Failure to Reply Within Time Period, which reads:

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section is further clarified in the MPEP, which provides

> [f]or example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not 'unavoidable' when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

MPEP § 711.03(c).

The evidence has been considered, but is not persuasive that the delay was unavoidable. It is noted initially that it is the Applicants responsibility to file a complete and proper reply in the first instance. Petitioner seeks to differentiate the form over the substance of the reply; however, the response must be both timely and proper. It was the form of the Amendment that failed to place the application in condition for allowance. Petitioner admits that he was confused as to the response required. However, 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 of any deficiency in sufficient time to permit the applicant to take corrective action.

As iterated in *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. The application became abandoned because Petitioner failed to file a complete and proper reply as the condition of the application required.

Accordingly, the petition under 37 CFR 1.137(a) is dismissed.

ALTERNATE VENUE

Petitioner is strongly encouraged to file a petition under 37 CFR 1.37(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), which is currently $640.00 ; (**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 filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Paper No. 29

Steven J Adamson
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Portland, OR 97228

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OFFICE OF PETITIONS

In re Application of :
Kenneth N. Bates :
Application No. 09/628,942 :
Filed: July 28, 2000 : ON PETITION
Title of Invention: :
ACOUSTIC WAVE IMAGING :
APPARATUS AND IMAGING :

This is a decision on the Renewed Petition to Revive Under 37 CFR 1.137(a), filed August 1, 2003.

The petition is **DISMISSED**.

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 1.37"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The application became abandoned for failure to timely and properly reply to the final Office action, mailed October 2, 2002, which set a shortened statutory period of three months for reply. Applicant filed an amendment in response to the final Office action on December 30, 2002. That response, however, was deemed not to place the application in condition for allowance. Applicant was so advised in an Advisory Action, mailed January 6, 2003. Applicant filed a Request for Reconsideration, along with a Request for a one (1) month extension of time to reply to the final Office action. In response to the Request for Reconsideration, a second Advisory Action was mailed on February 26, 2003. That Advisory Action informed Applicant that claims 24 - 28 were allowed, but the amendment was not in compliance with 37 CFR 1.173(c). Applicant filed a response to the

February 26, 2003 Advisory Action; however, that response failed to place the application in condition for allowance because Applicant still had not complied with 37 CFR 1.173. Applicant was so notified in a third Advisory Action, mailed April 16, 2003. A Notice of Abandonment was mailed May 5, 2003.

Applicant filed a petition to revive the application based upon unavoidable abandonment on June 6, 2003. Applicant argued in the petition that the delay was unavoidable in part because he was unsure of the Examiner's request, and in part because this Office failed, for two months, to recognize the claims as allowable. *Original Petition* at p.2.

The petition was dismissed in a Decision mailed June 30, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). The Decision dismissing the petition informed Applicant that it was Applicant's responsibility in the first instance to file a complete and proper reply, and that a delay was not unavoidable when Applicant permits the period for reply to expire while awaiting a reply from this Office. Moreover, Applicant was advised that a delay cause by Applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the Manual for Patent Examining Procedure ("MPEP") is not rendered unavoidable due to (1) Applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the Applicant of any deficiency in sufficient time to permit the Applicant to take corrective action. *Decision* at p.3-4.

Applicable Law

Petition under 37 CFR 1.137(a) for unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

The instant Renewed Petition

Applicant files the instant Renewed Petition and avers that 37 CFR 1.173, "as written or as applied by the Examiner, are not sufficiently clear as to permit a practitioner to respond in a 'certain' manner." *Renewed Petition* at p.1. Applicant asserts that {[i]t is this lack of clarity in the regulations as written or as applied that has le[]d to abandonment of the above-identified application." *Renewed Petition* at p.2.

Applicant's assertions are not well taken. Applicant is charged, as a Registered Practitioner, with knowledge and understanding of the patent rules. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Applicant now asserts that it is a lack of clarity in the regulations as written or as applied that led to the abandonment of the application. That the rules are unclear as to Applicant does not amount to unavoidable delay. As iterated in the Decision mailed June 30, 2003, Applicant's misunderstanding of the rules, and this Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action, do not amount to unavoidable delay. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Furthermore, Applicant, with the assistance of the Examiner, was able to comply with the 37 CFR 1.173. *Original Petition* at p.2. Applicant stated in his original petition that part of the delay was due to a "good faith misunderstanding as to the interpretation of § 1.173 which the Examiner and the Applicant... eventually achiev[ed]...." *Original Petition* at p.2. For Applicant to initially argu that there was a good faith misunderstanding, and to now argue that the rule is not clear, is an argument that is not well taken.

Conclusion

Accordingly, the application remains abandoned.

A Decision on the petition under 37 CFR 1.137(b) follows under separate cover.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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Steven J Adamson
P O Box 5997
Portland, OR 97228

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OFFICE OF PETITIONS

In re Application of :
Kenneth N. Bates :
Application No. 09/628,942 :
Filed: July 28, 2000 : ON PETITION
Title of Invention: :
ACOUSTIC WAVE IMAGING :
APPARATUS AND IMAGING :

This is a decision on the Renewed Petition to Revive Under 37 CFR 1.137(b), filed March 31, 3004. The delay in treating this petition is regretted.

The petition is **GRANTED**.

Background

The application became abandoned for failure to timely and properly reply to the final Office action, mailed October 2, 2002, which set a shortened statutory period of three months for reply. Applicant filed an amendment in response to the final Office action on December 30, 2002. That response, however, was deemed not to place the application in condition for allowance. Applicant was so advised in an Advisory Action, mailed January 6, 2003. Applicant filed a Request for Reconsideration, along with a Request for a one (1) month extension of time to reply to the final Office action. In response to the Request for Reconsideration, a second Advisory Action was mailed on February 26, 2003. That Advisory Action informed Applicant that claims 24 - 28 were allowed, but the amendment was not in compliance with 37 CFR 1.173(c). Applicant filed a response to the February 26, 2003 Advisory Action; however, that response failed to place the application in condition for allowance because Applicant still had not complied with 37 CFR 1.173. Applicant was so notified in a third Advisory Action, mailed April 16, 2003. The application became abandoned on April 3, 2003. A Notice of Abandonment was mailed May 5, 2003.

With the instant petition, Applicant has revived the application. The Amendment, filed April 28, 2003, places the application in condition for allowance.

This application is being referred to Technology Center 3643 for processing of the Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

CARY D. PERTTUNEN
11764 RAINTREE COURT
SHELBY TOWNSHIP MI 48315

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JUN 25 2007
OFFICE OF PETITIONS

In Application of	:	
Cary Perttunen	:	DECISION ON APPLICATION
Application No. 09/629,013	:	FOR
Filed: July 31, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No. CDP0700	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed April 24, 2007. Applicant requests that the patent term adjustment indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one thousand one hundred seventy-eight (1178) days to one thousand four hundred seventy-two (1472) 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 four hundred seventy-two (1472) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 21, 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 1178 days. The instant request was timely filed on the same date as payment of the Issue Fee. Applicants request a total of 294 additional days of PTA for Office delay in mailing a notice of allowance more than four months after a favourable Board of Patent Appeals and Interference (BPAI) decision.

Applicant states that the patent issuing from this application is not subject to a terminal disclaimer.

Applicant is entitled to a period of adjustment for Office delay in taking action after the final decision by the Board. Specifically § 1.703(a)(5) provides for a period of adjustment for Office delay for:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. '141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

A favorable decision was entered on January 31, 2006. The notice of allowance under 35 U.S.C. 151, mailed March 21, 2007, was mailed in response to the favorable decision. Pursuant to § 1.703(a)(5), a period of adjustment of 294 days, for the period from June 1, 2006 to March 21, 2007, should have been entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is one thousand four hundred seventy-two (1472) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED Pair Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 18

EDWARD W BULCHIS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

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APR 18 2002

OFFICE OF PETITIONS

In re Application of :
Douglas D. Do et al :
Application No. 09/629,022 : ON PETITION
Filed: July 31, 2000 :
Attorney Docket No. 500414.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 15, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 16, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The Associate Power of Attorney filed March 20, 2002, is noted and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2881.

Wan Laymon
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
Eric R. Schorman et al.
Application No. 09/629,320
Filed: July 31, 2000
Attorney Docket No. PF02024NA

ON PETITION

This is a decision on the petition filed November 8, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned June 15, 2005 for failure to timely pay the issue fee on or before June 14, 2005. Accordingly, a Notice of Abandonment was mailed October 25, 2005.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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)).

#5

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

October 23, 2002

Jay S. Cinamon
Abelman Frayne & Schwab
150 East 42nd ST.
New York, NY 10017-5612

In re application of:
Lee et al DECISION ON PETITION
Serial No.: 09/629,341
Filed: August 1, 2000

For: NOVEL MATERIAL SEPARATED FROM ECKLONIA CAVA et al

This is a decision on the faxed documents received on May 24, 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 22, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned November 24, 2000. The notice of abandonment was mailed on July 15, 2002.

On May 24, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney filed the declaration on August 1, 2000 at the time of filing.

The evidence submitted is sufficient to establish that the petitioners filed the declaration on August 1, 2000 at the time of filing the application.

The petition is hereby GRANTED.

The office regrets any inconvenience this may have caused the client.

The application has been completed for release to Technology Center 1752.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
Anton et al. : DECISION ON PETITION
Application No. 09/629,408 :
Filed: August 1, 2000 :
Atty Docket No. 35817/02369827:

COPY MAILED
AUG 30 2006
OFFICE OF PETITIONS

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed March 1, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective June 2, 2004. A courtesy Notice of Abandonment was mailed on September 15, 2004.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The petition also included a Request for Continued Examination (RCE). As prosecution has not closed in the instant application (the Office action mailed March 1, 2004 was not a final rejection), submission of an RCE is improper. See MPEP 706.07(h). On petition to revive, the submission an amendment is forwarded to the examiner as the required reply to the non-final Office action.

The above-identified application has been abandoned for an extended period of time. The United States 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 United States Patent and Trademark Office.)

Technology Center AU 2131 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff for processing of the improper RCE and to the examiner for consideration of the amendment submitted on petition filed August 14, 2006.

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

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET, N.W.
SUITE 400 EAST
WASHINGTON, DC 20005

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of
Franz Josef Brocker et al.
Application No. 09/629,482
Filed: July 31, 2000
Attorney Docket No.: 50487

ON PETITION

This is a decision on the petition filed December 19, 2005 and supplemented on January 19, 2005, to withdraw the holding of abandonment for the above-identified application. The petition 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".

The application was held abandoned on August 19, 2004, for failure to file a timely reply to the non-Final Office Action mailed May 18, 2004. A three month period for reply was set. Accordingly, a Notice of Abandonment was mailed on December 8, 2005.

Petitioner asserts that a response was filed August 12, 2004. In support, petitioner has submitted, *inter alia*, a their filing log a copy of the search results from the Patent Application Information Retrieval system both showing an entry for an amendment on August 12, 2005. Additionally, petitioners have submitted a cover page used for submitting the response with a certificate of mail of August 12, 2004.

A search of the application file and the USPTO records does not disclose that the actual amendment is of record. It appears, from the proof submitted though that petitioner attempted to file the response in a timely manner but until such time as a proper response, the amendment is of record, the petition cannot be granted and the abandonment withdrawn.

Please submit the amendment, not just the cover page with a renewed petition for further consideration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET, N.W.
SUITE 400 EAST
WASHINGTON, DC 20005

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Franz Josef Brocker et al.
Application No. 09/629,482
Filed: July 31, 2000
Attorney Docket No.: 50487

ON PETITION

This is a decision on the renewed petition filed March 16, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on August 19, 2004, for failure to file a timely reply to the non-Final Office Action mailed May 18, 2004. A three month period for reply was set. Accordingly, a Notice of Abandonment was mailed on December 8, 2005. A petition filed December 19, 2005 was dismissed in a decision mailed March 8, 2006 because although the petition and evidence submitted established that a response to the non-Final Office Action had been timely filed, a copy of the complete response was not of record.

Comes now petitioner with the instant renewed petition and a copy of the complete response filed August 12, 2004, which also bears of certificate of mail of August 12, 2004.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 1764 for appropriate action on the amendment filed August 12, 2004, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

MAILED

MAR 24 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Franz Josef Brocker et al
Application No. 09/629,482
Filed: July 31, 2000
Attorney Docket No. 50487

This is a decision on the petition, filed March 23, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 2009 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 1797 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/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6330281
Issue Date: December 11,2001
Application No. 09629514
Filed: August 1,2000
Attorney Docket No. WGC-5

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed May 21,2010 ,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 21,2010 . 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)
6,330,281	2001-12-11	09/629,514	2000-08-01	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/C. Scott Talbot/	Date (YYYY-MM-DD)	2010-05-21
Name	C. Scott Talbot	Registration Number	34262

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Andrew F. Strobert
Skadden, Arps, Slate, Meagher & Flom, LLP
Four Times Square
New York, NY 10036

MAILED

JUN 03 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Ashvin Bonafede Chhabra et al.
Application No. 09/629,589
Filed: July 31, 2000
For: METHOD AND SYSTEM FOR COMPUTING PATH DEPENDENT PROBABILITIES OF ATTAINING FINANCIAL GOALS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on February 4, 2003.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to properly respond to the Office action mailed June 27, 2002, and a notice to that effect was mailed on January 28, 2003.

The applicant has submitted a copy of a response which includes a copy of a post card identifying the response and which included a USPTO Mail Room receipt date of December 26, 2002. This is acceptable evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the Examiner for prompt action on merits.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 5/29/03

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAR 14 2002

Paper No. 6

Jonathan M. Harris
Conley, Rose & Tayon, P.C.
P.O. Box 3267
Houston, Texas 77253-3267

In re Application of: Gregory Burns et al.	)	
Application No. 09/629,601	)	
Filed: July 31, 2000	)	**DECISION ON REQUEST FOR**
For: CONFIGURABLE STORAGE	)	**WITHDRAWAL AS ATTORNEY**
ARRAY	)	

This is a decision on the Request To Withdraw from Representation filed October 30, 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.

As a result of a Revocation filed by assignee on 4 March 2002, the attorneys requesting withdrawal are 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 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: Jeffrey A. Pyle
Williams, Morgan & Amerson, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione
P. O. Box 10395
Chicago, IL 60610

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of	:	
James Hongxue Wang, et al.	:	
Application No. 09/629,678	:	ON PETITION
Filed: August 1, 2000	:	
Attorney Docket No. 659/1744	:	

This is a decision on the provisional petition under 37 CFR 1.137(b), filed May 5, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A Final Office action was mailed to applicant on November 13, 2002, which set a three-month shortened statutory period within which to submit a reply. A reply was filed via certificate of mailing under the provisions of 37 CFR 1.8 on February 12, 2003. An Advisory Action was mailed to applicant on March 17, 2003 and applicant submitted a Request for Continued Examination (RCE) and an appropriate request for extension of time under 37 CFR 1.136 on April 21, 2003. A Notice of Improper RCE was mailed to applicant on May 21, 2003, stating that the RCE was not accompanied by a submission.

MPEP 706.07(h)(II) in pertinent part states:

> "In addition, a previously filed amendment after final (whether or not entered) may satisfy the submission requirement."

MPEP 706.07(h)(III)(D) in pertinent part further states:

> "Any previously filed unentered amendments, amendments filed with the RCE, and any amendments filed prior to the mailing of the next Office action (after the RCE) will normally be entered. Absent specific instructions for entry, all amendments filed as of the date the RCE is filed are entered in the order in which they were filed."

In view of the above, the amendment filed February 12, 2003 was construed to be the submission required by 37 CFR 1.114. Accordingly, the application was not held abandoned. Therefore, the instant petition is unnecessary and the petition fee will be refunded to petitioner in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

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SEP 06 2006

OFFICE OF PETITIONS

In re Application of
Alcott
Application No. 09/629,678
Filed: August 1, 2000
Attorney Docket No.659-1744

DECISION DISMISSING PTA
RECONSIDERATION

This decision is in response to patentees' NOTIFICATION CONCERNING PATENT TERM ADJUSTMENT on March 3, 2006 requesting that the Office review the amount of PTA because the determination of 569 days "may extend the term of this patent by too many days.

Patentees' letter regarding PTA is **DISMISSED.**

Patentees' assert that the number of PTA days determined by their analysis may extend the patent by too many days. Patentees did not provide any information as to the nature of the error in the USPTO determination. Patentees assert that they believe the proper amount of PTA to be 542 days.

Patentees' assertion is not persuasive. The determination of 569 days of PTA at the time of the mailing of the issuance of the patent is accurate. A review of the application file reflects that the Office failed to initially act upon the application within fourteen months of the filing date of the application by period of TWO HUNDRED AND SEVENTY-FOUR (274)days. See 37 CFR 1.702(a)(1). An additional delay of FIVE HUNDRED AND FIFTY-FIVE (555) days of Office delay pursuant to 37 CFR 1.702(a)(4) was awarded. Patentees had ONE HUNDRED AND THIRTY NINE(103 + 36=139) days of applicant delay for failing to meet the requirement of 37 CFR 1.704(b). In addition, patentees missed the requirements of 37 CFR 1.704(c)(10) by a period of 121 days. Accordingly, the overall determination is 569 (829-260= 569).

The Office notes for the record that the file history indicates a miscellaneous incoming letter on June 4, 2003 that patentees may be construing as a supplemental response to the RCE submission on 5/27/2003. However, a review of the Image File Wrapper (IFW) reflects that the letter of 6/4/2003 is a copy of the RCE submission of 5/27/2003 and accordingly would not be a reduction under 37 CFR 1.704(c)(8).

If applicant believes that the Office has overlooked some factor in this response, then the Office invites applicant to reply with a comment as what the error involves.

After the mailing of this decision, the application will be forwarded to the file repository for a storage of the patented file.

The Office thanks applicants for their good faith and candor in bringing alleged PTO errors to the attention of the Office. Under these circumstances, the Office will not assess a fee for the submission of this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: PAIR calculation

PALM INTRANET

Day : Tuesday
Date: 9/5/2006
Time: 11:18:12

PTA Calculations for Application: 09/629678			
Application Filing Date:	08/01/2000	PTO Delay (PTO):	829
Issue Date of Patent:	03/14/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	260
Post-Issue Petitions:	0	Total PTA (days):	569
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	03/14/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	555		60
64	01/19/2006	RECEIPT INTO PUBS			
63	01/17/2006	DISPATCH TO FDC			
62	01/17/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
61	01/17/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
60	05/05/2004	ISSUE FEE PAYMENT VERIFIED		1	43
59	01/16/2006	TC RETURN TO PUBS			
58	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
57	10/12/2005	PUBS CASE REMAND TO TC			
55	03/23/2005	RECEIPT INTO PUBS			
52	07/21/2004	PETITION DECISION - DISMISSED			
51	05/05/2004	PETITION ENTERED			
50	05/05/2004	WORKFLOW INCOMING PETITION IFW			
49	05/05/2004	ISSUE FEE PAYMENT RECEIVED			
48	03/19/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	
47	04/13/2004	CORRESPONDENCE ADDRESS CHANGE			
46	04/12/2004	RECEIPT INTO PUBS			
45	03/02/2004	RECEIPT INTO PUBS			
44	03/01/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
43	02/04/2004	MAIL NOTICE OF ALLOWANCE			
42	02/04/2004	MAIL EXAMINER'S AMENDMENT			
41	01/29/2004	ISSUE REVISION COMPLETED			
40	01/29/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	01/29/2004	CASE DOCKETED TO EXAMINER IN GAU			

38	01/26/2004	EXAMINER'S AMENDMENT COMMUNICATION			
37	01/26/2004	NOTICE OF ALLOWABILITY			
36	12/22/2003	CORRESPONDENCE ADDRESS CHANGE			
35	12/22/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	11/14/2003	DATE FORWARDED TO EXAMINER			
33	11/06/2003	RESPONSE AFTER NON-FINAL ACTION		36	31
32	11/06/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	07/01/2003	MAIL NON-FINAL REJECTION			
30	06/30/2003	NON-FINAL REJECTION			
29	06/04/2003	MISCELLANEOUS INCOMING LETTER			
28	06/22/2003	DATE FORWARDED TO EXAMINER			
27	05/27/2003	SUPPLEMENTAL RESPONSE		0	25
26	06/22/2003	DATE FORWARDED TO EXAMINER			
25	05/27/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		103	13
24	06/22/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
23	05/21/2003	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
22	05/20/2003	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
21	04/21/2003	IMPROPER REQUEST FOR CONTINUED EXAMINATION			
20	04/21/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	04/21/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
18	04/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/17/2003	MAIL ADVISORY ACTION (PTOL - 303)			
16	03/14/2003	ADVISORY ACTION (PTOL-303)			
15	02/28/2003	DATE FORWARDED TO EXAMINER			
14	02/19/2003	AMENDMENT AFTER FINAL REJECTION			
13	11/13/2002	MAIL FINAL REJECTION (PTOL - 326)			
12	11/12/2002	FINAL REJECTION			
11	09/12/2002	DATE FORWARDED TO EXAMINER			
10	09/04/2002	RESPONSE AFTER NON-FINAL ACTION			
9	07/02/2002	MAIL NON-FINAL REJECTION	274		-1
8	07/01/2002	NON-FINAL REJECTION			

7	04/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	08/28/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	09/26/2000	CASE DOCKETED TO EXAMINER IN GAU			
4	09/18/2000	APPLICATION DISPATCHED FROM OIPE			
3	09/18/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/25/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,,988,727 B2

DATED : Jan. 24, 2006

INVENTOR(S) : Yano

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 (306) days

Delete the phrase "by 306 days" and insert – by 426 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6500666
Issue Date: December 31,2002
Application No. 09629687
Filed: August 1,2000
Attorney Docket No. 65.123.1950

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6500666	2002-12-31	09629687	2000-08-01	65.123.1950 (F-FSH-01)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David H. Brinkman/	Date (YYYY-MM-DD)	2007-04-02
Name	David H. Brinkman	Registration Number	40532

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

OFFICE

Paper No. 33

DURHAM RUSSELL MAPLES
1507 PARK CIRCLE
CAMDEN, SC 29020

COPY MAILED

MAY 1 3 2005

Director's Office
Office of Patent Publication

In re Application of :
MAPLES, DURHAM RUSSELL :
Application No. 09/629,749 : **DECISION ON PETITION**
Filed: July 31, 2000 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on March 18, 2004. The deciding official in the Office of Patent Publication received the petition and application file on March 4, 2005.

The petition is **GRANTED.**

The application was held abandoned for Applicant's failure to timely file corrected drawings as required in the Notice of Allowability mailed September 10, 2003. Accordingly, a Notice of Abandonment was mailed February 2, 2004.

Petitioner states that on September 23, 2003, the Applicant had previously sent the corrected drawings, transmittal letter, and amended claims to correct an error in the claims. Petitioner has demonstrated that the afore-mentioned documents were timely mailed via certificate of mailing on September 23, 2003 and is in compliance with 37 CFR 1.8.

In view of the above, the holding of abandonment is hereby withdrawn. Accordingly, the corrected drawing will be accepted as timely mailed via certificate of mailing on September 23, 2003.

The application file will be forwarded to Examiner, Pierre Elisca, Art Unit 3621 to review and/or enter the Amendment to the claims, which was submitted with the corrected drawing.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED

OCT 2 4 2001

OFFICE OF PETITIONS

In re Application of
Wyzgala, et al.
Application No.: 09/629,771
Filed: July 31, 2000
Attorney Docket No.: BSCO114052
For: EXPANDABLE ABLATION BURR

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 27, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 31, 2000 without an executed oath or declaration. Accordingly, on September 25, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on March 27, 2001 (certificate of mailing date March 23, 2001), a petition for a four month extension of time and required fee, a declaration executed by 8 of 9 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. A declaration of facts of Susan L Creek, a patent legal secretary, accompanied the petition. Ms. Creek explains that non-signing joint inventor Eric B. Hamilton received a copy of the declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) , (2), and (4) above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims,

drawings, if any, and a declaration. See MPEP 409.03(d). Ms. Creek's statement of facts does not establish that a complete copy of the application was mailed to Mr. Hamilton's last known address.

Mr. Hamilton must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioner can show that Mr. Hamilton was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor Hiblar's name. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Hamilton is REQUIRED. See MPEP 409.03(a).

It is noted that the address for Mr. Hamilton on the declaration is not one of the addresses to which Ms. Creek sent the copies of the declaration and the reminder letters. The Office would like a statement from petitioner., that the address on the declaration for Mr. Hamilton was indeed a prior address for him.

As to item (4), a clear statement of the inventor's last known address is missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By 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 the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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JUN 06 2002

OFFICE OF PETITIONS

In re Application of
Wyzgala, et al.
Application No.: 09/629,771
Filed: July 31, 2000
Attorney Docket No.: BSCO114052
For: EXPANDABLE ABLATION BURR

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed March 1, 2002 (certificate of mailing date February 25, 2002).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Eric B. Hamilton, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Luke Dohmen, Vice President of a party in interest, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to several requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This 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 file is being forwarded to Technology Center Art Unit 3732 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/8/08

TO SPE OF : ART UNIT 3732 Lewis, Ralph

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/629771 Patent No.: 6685718

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

Cris Rodriguez 3732
SPE 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

Albert C. Smith
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

JAN 28 2002

In re Application of	:	
Yowjuang W. Liu et al.	:	DECISION ON REQUEST TO
Application No. 09/629,780	:	WITHDRAW FROM RECORD
Filed: July 31, 2000	:	
For: A TRENCHED GATE NON-VOLATILE	:	
SEMICONDUCTOR DEVICE . . .	:	

This is a decision on the request to withdraw as attorney or agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on April 30, 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). See MPEP §402.06.

The request is **APPROVED** for the withdrawal of all the attorneys of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney of record.

As requested, all future communications from the Office will be directed to James P. Hao, Esq. at the address indicated below unless otherwise notified by applicant.

All inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: James P. Hao, Esq.
Wagner, Murabito & Hao LLP
2 North Market Street, 3rd Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Donald V. Perino	:	
Application No. 09/629,862	:	DECISION GRANTING PETITION
Filed: August 1, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 060809-0057-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 19,2004, 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 20, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), along with a submission in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 19, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 2634 for processing and action on the concurrently filed RCE and amendment.

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. 6

BARRY E BRETSCHNEIDER
MORRISON & FOERSTER
2000 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20006-1888

COPY MAILED

JUN 01 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Paul Derek Coon et al.
Application No. 09/629,953
Filed: August 1, 2000
For: ALIGNMENT SIMULATION

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 14, 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.

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 Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Initial Patent Examination Division for Preexamination 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

Paper No. 7

ARUN ANANTH AIYER
43 DOLERITA COURT
FREMONT, CA 94539

COPY MAILED

JUN 01 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Coon; Chau and Aiyer
Application No. 09/629,953
Filed: August 1, 2000
For: ALIGNMENT SIMULATION

Dear Mr. Aiyer:

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 Wan Laymon at (703) 306-5685. 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
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
BARRY E BRETSCHNEIDER
MORRISON & FOERSTER
2000 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20006-1888

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Barry E. Bretschneider
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888

MAILED

DEC 0 3 2001

Technology Center 2100

In re Application of: Paul Coon et al.	)	
Application No. 09/629,953	)	
Filed: August 1, 2000	)	**DECISION ON REQUEST FOR**
For: ALIGNMENT SIMULATION	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed November 8, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is deficient in the following aspects: (1) there is no statement that Barry E. Bretschneider is ***authorized*** to sign on behalf of the other attorneys; and (2) there is no indication that the applicant has been notified of the request for withdrawal. Therefore, the request is **DENIED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Coon et al.	:	
Application No. 09/629,953	:	LETTER REGARDING
Filed: August 1, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 371922005920	:	

This is in response to the NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT filed June 30, 2005, pursuant to applicants' duty of good faith and candor to the Office. Applicants disclose that the initial determination of patent term adjustment under 35 U.S.C. 154(b) should be corrected from one thousand thirteen (1013) days to nine hundred twenty-seven (927) 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 twenty-seven (927) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 10, 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 1013 days. On June 30, 2005, applicants submitted this letter, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is

927 days. In essence, applicants disclose that the PTA should have been reduced by 86 days pursuant to §1.704(b).

A review of the record reveals that applicants are correct. A complete and proper response to the Notice to File Missing Parts mailed September 18, 2000 was not received until March 14, 2001. This was outside the three-month period set forth in 37 CFR § 1.704(b). Accordingly, a period of reduction of 86 days for the period from December 19, 2000 to March 14, 2001 should have been entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is nine hundred twenty-seven (927) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for issuance of the patent. Any additional time accrued for either the Office taking in excess of three years to issue the patent or for the Office taking in excess of four months to issue the patent after all outstanding requirements have been met will be reflected in the PTA on 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 12, 2002

Catherine I. Klima-Silberg
Schwegman, Lundberg, Woessner & Kluth
P. O. Box 2938
Minneapolis, MN 55402

In re application of:
Bruce Tockman et al
Serial No.: 09/130,000
Filed: August 1, 2000

DECISION ON PETITION

For: LEAD HAVING VARYING STIFFNESS AND METHOD OF MANUFACTURING THEREOF

This is a decision on the petition received January 3, 2002, to withdraw the holding of abandonment in the above-identified application.

Accordingly, this application became abandoned on March 23, 2001, by a retention request. Accompanied with four-months extension of time received from the attorney on March 27, 2001. A notice of abandonment was mailed on August 2, 2001

On April 27, 2001, the office received a communication from the attorney of record with a certificate of mailing dated March 22, 2001. Enclosed was the response to the Notice to File Missing Part mailed September 22, 2000, with one-month extension of time for a competition of 5-months extension of time to complete the filing requirements.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 3737.

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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WESTERN DIGITAL CORP.
20511 LAKE FOREST DRIVE
C205 - INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST, CA 92630

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher L. Hamlin	:	
Application No. 09/630,069	:	ON PETITION
Filed: July 31, 2000	:	
Attorney Docket No. K35A0638	:	

This is a decision on the petition, filed June 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 6, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2134 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAILED

JAN 1 8 2005

Technology Center 2100

In re Application of: Tanaka, et al. Application No. 09/630,136 Attorney Docket No. 5-005US-FF Filed: August 1, 2000 For: STYLE-SHEET OUTPUT APPARATUS AND METHOD, AND STYLE-SHEET OUTPUT SYSTEM	))))))	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, filed December 06, 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 timely pay the issue fee due within the statutory period of three months from the mailing date of the Notice of Allowance mailed December 15, 2003 and the corrected Notice of Allowance and Fee(s) Due (PTOL-85), mailed June 9, 2004.

The petition is **DISMISSED**.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance was not received and a statement from the person who would have handled the Office action had it been received.

According to the MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

> *1) a statement from practitioner that the Office action was not received;*
> ***2) a statement from practitioner that the file jacket and docket records were searched;***
> ***3) a copy of the docket record at the address of record; and***
> *4) a reference to the docket record in the practitioner's statement.*
> [Emphasis added.]

The petition fails to fully comply with requirements 2 and 3 set forth above. The evidence submitted has not overcome the presumption of receipt.

With respect to requirement 2, the petition lacks a statement on the part of the practitioner that the file jacket and docket records were searched for the above-identified application. With

respect to requirement 3, the docket record lacks a clear indication that the copy of the docket record was from the address of record at the time the action was mailed. Further, exhibits A and B appear to conflict with each other concerning the activity within intervening dates. For example, part of Exhibit A appears to rely on activity for the specific dates of March 1, 2004 and March 15, 2004, while part of Exhibit B appears to rely on activity between February 25-March 3, 2004. The evidence in Exhibit A suggests no other activity took place between the dates of March 1 and March 15, which appears to conflict with the evidence provided in Exhibit B that suggests activity occurring on March 2, 2004 and March 3, 2004. Clarification as to what the evidence actually shows is respectfully requested in any reply to the dismissal.

If 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.

Brian L. Johnson
Special Programs Examiner 1/6/05
Technology Center 2100
Computer Architecture, Software, and Information Security

MBS

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.
09/630,155	07/31/2000	Joni Kristin Doherty	49321-TBA	8230

22504 7590 09/10/2002

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

EXAMINER
HUNT, JENNIFER ELIZABETH

ART UNIT	PAPER NUMBER
1642	18

DATE MAILED: 09/10/2002

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
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Paper No. 18

In re Patent No. 6,414,130, DOHERTY ET AL.	:	
Issue Date: July 2, 2002	:	**DECISION GRANTING**
Appl No.: 09/630,155	:	**PETITION**
Filed: July 31, 2000	:	*37 CFR 1.324*
For: Correction of Inventorship	:	
	:	
	:	
	:	

This is a decision on the petition filed July 30, 2002 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.

ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Anthony Caputa
Supervisory Patent Examiner,
Art Unit 1642,
Technology Center 1600

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,414,130
Patented: July 2, 2002

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:

Joni Kristen Doherty; Gail M. Clinton; John P. Adelman, all of Portland, OR (US)

Anthony Caputa
Supervisory Patent Examiner,
Art Unit 1642

ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
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

DATE: August 30, 2002
TO: Certificates of Correction Branch
FROM: Anthony Caputa
SPE, Art Unit 1642
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,414,130 as specified on the attached Certificate.

Anthony Caputa, SPE
Art Unit 1642

ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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#14

MAILED

JAN 27 2003

Office of the Director
Group 3600

J. MICHAEL NEARY
542 SW 289TH STREET
FEDERAL WAY, WA 98023

Paper No. 14

In re Application of Christopher W. Gabrys et al Application No. 09/630,157 Filed: July 31, 2000 Attorney Docket No.: 5434 For: FLYWHEEL HUB – TO – RIM COUPLING	DECISION ON PETITION UNDER 37 CFR §1.181

This is a decision on appellants' petition under 37 CFR 1.181 filed January 2, 2003 requesting that the amendment under 37 CFR 1.116 and the affidavit of Dennis Simmons filed October 7, 2002 be entered.

The petition is **DENIED.**

The record reflects that on September 20, 2001 an Office action was mailed requiring an election of species between the species of Figures 1-4 and Figures 5-6. On November 26, 2001, appellants' elected without traverse the species of Figures 5-6, claims 1-8 and 10-20. On February 1, 2002 a non-final Office action was mailed rejecting claims 1-6 and 10-20 under 35 U.S.C. 112, first paragraph, rejecting claims 10-20 under 35 U.S.C. 112, second paragraph, and rejecting claims 7 and 8 under 35 U.S.C. 102. On May 10, 2002 appellants' filed an amendment amending claims 7, 10, and 16, and arguing the 35 U.S.C. 112, first and second paragraph, rejections. On June 7, 2002 a final Office action was mailed rejecting claims 1-8 and 10-20 under 35 U.S.C. 112, first paragraph, rejecting claims 7, 8, and 10-20 under 35 U.S.C. 112, second paragraph, and rejecting claims 7 and 8 under 35 U.S.C. 102. On October 7, 2002 appellants filed an affidavit by Dennis Simmons and an amendment under 37 CFR 1.116 amending claims 7, 10, 13, 15, and 16. On October 30, 2002 an Advisory Action was mailed denying entry of the amendment under 37 CFR 1.116 as the proposed changes to claim 7 raised new issues that require further consideration and/or search because claim 7 adds the limitation that the rim liner is disposed inside the rim. On November 7, 2002 appellants' filed a Notice of Appeal and a Request for Reconsideration of the denial of entry of the non-entered amendment under 37 CFR 1.116 filed October 7, 2002. On December 6, 2002 an Advisory Action was mailed denying the request for reconsideration.

Appellants' argue that the affidavit is timely because in the final Office action mailed June 7, 2002 the Examiner invited appellant to provide evidence to show that know-how

exists, without extensive research by the manufacturing industry, to follow the teachings in the specification to produce the claimed invention. Appellants' next argue that the amendment to claim 7 does not raise a new issue because the limitation that the rim liner is "inside said flywheel rim" is not a new issue and was already searched and considered by the Examiner in his consideration of original and amended claim 15, which called for an annular rim liner engaged with the inner circumferential surface of an annular rim. Appellants' further argue that the entry of the amendment filed under 37 CFR 1.116 would simplify the issues for appeal as it resolves the two 35 U.S.C. 112, second paragraph, rejections and incorporates into claim 7 the subject matter from allowable claim 3, the limitation that the rim liner is "inside said flywheel rim" being a further limitation to the allowable subject of claim 3.

With regard to appellant's argument that the affidavit is timely, MPEP 716.01 states that an affidavit submitted under 37 CFR 1.132 and other evidence traversing rejections is considered timely if submitted after final rejection and submitted (i) with a first reply after final rejection for the purpose of overcoming a new ground of rejection or requirement made in the final rejection, or (ii) with a satisfactory showing under 37 CFR 1.116(b) or 37 CFR 1.195, or (iii) under 37 CFR 1.129(a). As the final Office action provided no new ground of rejection or requirement requiring the affidavit and appellants' have provided no showing under 37 CFR 1.116(b) or 37 CFR 1.195 the examiner's refusal to enter the affidavit is proper.

With regard to appellants' argument that the failure to enter the amendment under 37 CFR 1.116 is improper because the limitation that the rim liner is "inside said flywheel rim" is not a new issue as this imitation was already in claim 15 and in claim 3, a review of the record does not show that the limitation that the rim liner is "inside said flywheel rim" was previously set forth in claims 15 and 3. Claim 15 requires "a rim liner engaged with said inner circumferential surface of said inner annulus" and claim 3 requires (since it depends from claim 1) "an annular flywheel rim on said rim liner". Accordingly, the limitation set forth in claim 7 that the rim liner is "inside said flywheel rim" is broader than the limitations set forth in claims 15 and 3 that require that the rim liner engage the flywheel. Therefore, the broadening in scope of the limitation included in claim 7 raises a new issue that would require further consideration and/or search and is a proper grounds for not entering an amendment filed under 37 CFR 1.116.

With respect to appellants' argument that the amendment filed under 37 CFR 1.116 would simplify the issues for appeal because it corrects two 35 U.S.C. 112, second paragraph, rejections and incorporates the allowable subject matter from claim 3 into claim 7, these arguments are deemed moot as the amendment does not incorporate all of the allowable subject matter of claim 3 into claim 7, rather, it broadens the scope of claim 3 for the reasons set forth above and thus does not simplify the issues for appeal.

The petition is **DENIED.**

The application will be returned to the examiner for immediate action consistent with this decision including the preparation of a supplemental Advisory Action indicating reasons that the affidavit of Dennis Simmons is not persuasive.

Donald T. Hajec, Director
Patent Technology Center 3600
Telephone No.: (703) 306-4180
Facsimile No.: (703) 306-4598

dab:rr:1-15-03

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MAY 21 2004

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MAY 21 2004

OFFICE OF THE DIRECTOR
TC 3600

J. MICHAEL NEARY
542 SW 298TH STREET
FEDERAL WAY, WA 98023

In re Application of
Christopher W. Gabrys, et al.
Application No. 09/630,157
Filed: July 31, 2000
For: FLYWHEEL HUB-TO-RIM COUPLING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO), on October 14, 2003 and supplemented on February 24, 2004.. The delay in deciding this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record reveals that a Final rejection was mailed to applicants on June 7, 2002. A Notice of Appeal accompanied by a request for a two month extension of time under 37 CFR 1.136(a) and a Request for Reconsideration was received in the United States Patent and Trademark Office (USPTO) on November 7, 2002. An Advisory action was subsequently mailed to applicants on December 6, 2002 acknowledging receipt of the Notice of Appeal and notifying applicants of the time period for filing an Appeal Brief. An Appeal Brief was timely received on January 13, 2003 with a certificate of mailing dated January 7, 2003. Filed with the Brief was an amendment, which was not entered, for the reasons explained in a subsequent Advisory Action mailed on March 7, 2003. The application was held abandoned for failure to timely file a response to the letter mailed March 7, 2003 (not March 2, as indicated in the Notice of Abandonment) and a Notice to that effect was mailed September 24, 2003.

Applicants submit the application should not have been held abandoned because, although the amendment accompanying the Appeal Brief was considered, no action was taken by the examiner on the Appeal Brief timely filed on January 13, 2003.

The Notice of Abandonment was mailed in error. Applicants submitted a Notice of Appeal and Appeal Brief in a timely manner. The fact that the examiner chose not to enter the amendment submitted concurrently with the Appeal Brief does not change the status of the application.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for consideration of the timely filed Appeal Brief.

Randolph A. Reese
Special Program Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 5/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES L. DRIESSEN
305 NORTH 1130 EAST
LINDON UT 84042

COPY MAILED

NOV 03 2009

OFFICE OF PETITIONS

In re Application of	:	
James Leonard Driessen	:	
Application No. 09/630,272	:	NOTICE
Filed: August 1, 2000	:	
Attorney Docket No.	:	

This is a notice regarding your request filed September 9, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

AUG 03 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John Smith-Hall
Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311

In re Application of: Hsu, et al.	)	
Application No. 09/630,348	)	DECISION ON PETITION TO
Attorney Docket No. NOVA 2037	)	WITHDRAW HOLDING OF
Filed: July 31, 2000	)	ABANDONMENT UNDER 37 CFR
For: CIRCUIT PROPERTY	)	§1.181
VERIFICATION SYSTEM	)	

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on January 14, 2005.

The instant application became abandoned for failure to timely respond to the Office action mailed December 4, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A USPTO Auto-Reply Facsimile Transmission 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 the response and cover sheet; a request (and fee) for a three months extension of time under 37 CFR §1.136(a); a USPTO Auto-Reply Fax Transmission receipt identifying the response and which includes a USPTO receipt date of June 1, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED.**

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment (restore the instant application to pending status), to enter both the response (copy filed January 14, 2005) as well as the request for extension of time (three-months, $475 charged to deposit account 19-2560). 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
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AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John Smith-Hill
Smith-Hill & Bedell, PC
16100 NW Cornell Road
Suite 220
Beaverton, Oregon 97006

In re Application of: Hsu, et al.	)	
Application No. 09/630,348	)	DECISION ON PETITION TO
Attorney Docket No. NOVA 2037	)	WITHDRAW HOLDING OF
Filed: July 31, 2000	)	ABANDONMENT UNDER 37 CFR
For: CIRCUIT PROPERTY	)	§1.181
VERIFICATION SYSTEM	)	

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on January 14, 2005.

The instant application became abandoned for failure to timely respond to the Office action mailed December 4, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A USPTO Auto-Reply Facsimile Transmission 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 the response and cover sheet; a request (and fee) for a three months extension of time under 37 CFR §1.136(a); a USPTO Auto-Reply Fax Transmission receipt identifying the response and which includes a USPTO receipt date of June 1, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED.**

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment (restore the instant application to pending status), to enter both the response (copy filed January 14, 2005) as well as the request for extension of time (three-months, $475 charged to deposit account 19-2560). 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/04/06

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 09/630454 6984512

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The limitation 'amino acids' in line 4 of the abstract currently printed on PTO/SB/44 (04-05) form lacks support in the originally filed abstract. While the limitation --amino acid-- is supported by the originally filed abstract at line 5, the new limitation 'amino acids' is not.

J. Smith — **SPE**

1645 — **Art Unit**

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,984,512 B1

APPLICATION NO.: 09/630,454

ISSUE DATE : January 10, 2006

INVENTOR(S) : Hungming J. Liaw, John Eddington, Yueqin Yang, Richard Dancey, Stacia Swisher, Weiying Mao

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 (57) Abstract, please delete the entire paragraph and insert the following paragraph:

The invention provides novel microorganisms, methods for the production thereof and novel processes for the production of amino acids. Mutagenesis of parental bacterial strains and selection of an improved raffinate-resistant phenotype enables the isolation of strains with enhanced growth properties that produce larger amounts of amino acids. Microorganisms of the invention are produced from amino acid producing parental strains such as Corynebacterium or Brevibacterium, particularly preferred are parental strains that produce L-lysine.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Duane A. Stewart, III, Buchanan Ingersoll PC
301 Grant Street, 20th Floor
Pittsburgh, PA 15219

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JAN 27 2006

OIPE IAP88
JAN 23 2006
PATENT & TRADEMARK OFFICE

Novel Bacterial Strains, Methods of Preparing the Same and Use Thereof in Fermentation Processes for L-lysine Production

Abstract

The invention provides novel microorganisms, methods for the production thereof and novel processes for the production of amino acids. Mutagenesis of parental bacterial strains and selection of an improved raffinate-resistant phenotype enables the isolation of strains with enhanced growth properties that produce larger amounts of amino acid. Microorganisms of the invention are produced from amino acid producing parental strains such as *Corynebacterium* or *Brevibacterium*, particularly preferred are parental strains that produce L-lysine.

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

McGlew & Tuttle, PC
Scarborough Station
Scarborough, NY 10510

COPY MAILED

AUG 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Andreas Helfenstein, et al. :
Application No. 09/630,625 : ON PETITION
Filed: August 1, 2000 :
Attorney Docket No. 67736 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 15, 2001, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 16, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2800, Art Unit 2854.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRAN & ASSOCIATES
6768 MEADOW VISTA COURT
SAN JOSE, CA 95135

COPY MAILED

OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Daniel Baum et al :
Application No. 09/630,752 :
Filed: August 2, 2000 :
Attorney Docket No. 1309.003US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 3, 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 March 4, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 1648 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/13/07

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/630915 Patent No.: 6880606

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1733
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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APR 05 2010

OFFICE OF PETITIONS

FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

In re Application of	:	
Kraal et al.	:	
Application No. 09/630,918	:	ON PETITION
Filed: 08/02/2000	:	
Attorney Docket No. 200-0646	:	

This is a decision on the petition under 37 CFR 1.181, filed December 1, 2008, to withdraw the holding of abandonment in the above-identified application. The petition was recently forwarded to the undersigned for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision on the petition under 37 CFR 1.181 must be submitted with TWO (2) MONTHS of the mailing date of the decision. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

On June 13, 2008, the Office mailed a Notice of Allowability, which set a three-month statutory period for reply to avoid abandonment. Specifically, the Notice of Allowability indicated that corrected drawings (as "replacement sheets") must be submitted, including the following changes required by the attached Examiner's Amendment/Comment, which stated:

Drawings

> 3. The drawings were received on 01/15/2004 are not annotated as "replacement sheets". Correction before payment of the issue fee is required.

The above-identified application became abandoned by operation of law on September 14, 2008. On October 7, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner asserts that the Notice of Allowability was improper, and thus, no response was required. Petitioner avers that the Office improperly held the application for lack of a reply to the Notice. Specifically, petitioner states:

> 1. In connection with the above-identified application, the United States Patent and Trademark Office mailed an Office Action on September 26, 2003, indicating that the drawings were objected to under 37 C.F.R. 1.84 and 1.83(a) and that proposed drawing corrections or corrected drawings were required, as evidenced by Exhibit A.
>
> 2. On December 26, 2003, Counsel for Applicants filed an Amendment along with proposed corrected drawings for approval, as evidenced by Exhibit B.
>
> 3. On January 13, 2004, Counsel for Applicants filed corrected drawings, as evidenced by Exhibit C.
>
> 4. The United States Patent and Trademark Office mailed an Office Action on March 22, 2004, indicating that the corrected drawings filed on January 6, 2004 (sic January 13, 2004) were accepted, as evidenced by Exhibit D.
>
> 5. Subsequently, a Notice of Allowance was mailed on June 13, 2008, along with a Notice of Allowability, which required corrected drawings and stated that the drawings received on January 15, 2004 were not annotated as "replacement sheets" and that correction before payment of the issue fee was required, as evidenced by Exhibit E.
>
> 6. Since the corrected drawings filed in paragraph 4 were previously accepted by the Examiner, Applicants were not required to file corrected drawings annotated as "replacement sheets" as requested in paragraph 5, as evidenced by Exhibit F.
>
> 7. The United States Patent and Trademark Office mailed a "Notice of Abandonment" on October 7, 2008 to Counsel for Applicants stating that no corrected drawing had been received as required by, and within the three-month period set in, the Notice of Allowability (Form PTO-37), as evidenced by Exhibit G.

Petition, pp 1-2.

Pursuant to 37 CFR 1.135:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

In this instance, petitioner did not respond in writing to the Notice of Allowability within the three-month statutory period in accordance with 37 CFR 1.135. Consequently, the application became abandoned for failure to respond timely and properly to the outstanding Notice of Allowability. The Office reminds petitioner that it was petitioner's responsibility to submit a timely and proper response to the Notice of Allowability to save the application from abandonment. Even if petitioner questioned the accuracy of the Notice of Allowability, petitioner was required to file either an appropriate reply to the Notice or a written and signed statement setting forth any believed errors in the Notice within the three-month statutory period for response. That is, petitioner cannot choose not to respond in any manner within the set time period and expect to avoid the consequence of abandonment of the application. The Office reminds petitioner that as stated in 37 CFR 1.2, all business with the USPTO should be transacted in writing. The action of the USPTO will be based exclusively on the written record in the Office.

Unfortunately, the Office is precluded from granting the requested relief. The responsibility was that of petitioner to submit a timely and proper response to the Notice of Allowability (which could have consisted of a statement disputing its accuracy), and petitioner failed so to do. As such, the showing of record is that the abandonment resulted from the failure of petitioner to respond the Notice of Allowability. Accordingly, the application is properly held abandoned.

The Office acknowledges the change of correspondence. Additionally, the Office notes that the $130.00 submitted on petition is unnecessary and will be refunded to the Deposit Account in due course.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

UNITED STATES PATENT AND TRADEMARK OFFICE

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

MAILED
JUN 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Kraal et al.	:	
Application No. 09/630,918	:	ON PETITION
Filed: 08/02/2000	:	
Attorney Docket No. 200-0646	:	

This is a decision on the petition under 37 CFR 1.137(b) filed May 17, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

On June 13, 2008, the Office mailed a Notice of Allowability, which set a three-month statutory period for reply to avoid abandonment. Specifically, the Notice of Allowability indicated that corrected drawings (as "replacement sheets") must be submitted, including the following changes required by the attached Examiner's Amendment/Comment, which stated:

Drawings

> 3. The drawings were received on 01/15/2004 are not annotated as "replacement sheets". Correction before payment of the issue fee is required.

The above-identified application became abandoned by operation of law on September 14, 2008. On October 7, 2008, the Office mailed a Notice of Abandonment.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings (2) the petition fee, and (3) a proper statement of unintentional delay. Accordingly, the failure to submit timely drawings in response to the Notice of Allowability is accepted as being unintentionally delayed.

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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 - 4 2002

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SUITE 1600
NEWPORT BEACH, CA 92660

#12

In re Application of	:
Judith W. Zyskind	:
Serial No.: 09/630,931	: PETITION DECISION
Filed: August 2, 2000	:
Attorney Docket No.: ELLITRA.006A	:

This is a decision on the Petition under 37 CFR 1.181, filed August 1, 2002, to Withdraw Holding of Abandonment based on non-receipt of an Office action.

A review of the file history shows that the examiner mailed a first Office action to applicant on November 28, 2001, setting a one month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on July 12, 2002. Applicant states that the Office action was not received and provide copies of docket records where the Office action would have been recorded had it been received. In view of the statements and evidence presented it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be returned to the examiner for prompt remailing of the Office 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) 308-7922.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 1 2 2007

OFFICE OF PETITIONS

PERMAN & GREEN, LLP
425 POST ROAD
FAIRFIELD CT 06824

In re Patent No. 6,928,299 :
Issue Date: August 9, 2005 :
Application No. 09/630,945 : ON PETITION
Filed: August 3, 2000 :
Attorney Docket No. 460-009575-US (PAR) :

This is a decision on the petition filed November 7, 2006, which is being treated under 37 CFR 1.182, 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 should be aware that the Zip Code in the address on the petition differs from the Zip Code in the address of record.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8C32 (Fax 571-273-9756)

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)
6,659,965	2003-12-09	09/631,046	2000-08-01	P/5517-6 (V14106)

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	/kourosh salehi/	Date (YYYY-MM-DD)	2009-12-09
Name	Kourosh Salehi	Registration Number	43898

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. 6659965
Issue Date: December 9,2003
Application No. 09631046
Filed: August 1,2000
Attorney Docket No. V1025/20055

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

#5
6-6-03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED

JUN 0 6 2003

TECHNOLOGY CENTER 2100

Paper No. 5

WAGNER, MURABITO & H AO LLP
Two North Market Street
Third Floor
San Jose, CA 95113

In re Application of: Bo WU	)	
Application No. 09/631,058	)	
Filed: August 1, 2000	)	**DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR	)	**WITHDRAWAL AS ATTORNEY**
PROVIDING A DYNAMIC MEDIA	)	
DISTRIBUTION INFRASTRUCTURE	)	

This is a decision on the Request To Withdraw from Representation filed May 23, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Because no request was made for a change in correspondence 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. 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.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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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Jean-Marc Zimmerman
226 St Paul Street
Westfield NJ 07090

MAILED

OCT 31 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Catherine Lin-Hendel
Application No. 09/631,238
Filed: August 2, 2000
For: SYSTEM AND METHOD FOR CONSTRUCTING AND DISPLAYING ACTIVE VIRTUAL REALITY CYBER MALLS, SHOW ROOMS, GALLERIES, STORES, MUSEUMS, AND OBJECTS WITHIN

: DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMET

This is in response to applicant's petition filed in the United States Patent and Trademark Office (USPTO), on May 23, 2003, which is being treated as a Petition to Withdraw the Holding of Abandonment.

The petition is **DENIED**.

A review of the file record indicates that an Office action was mailed on September 5, 2002 wherein a three-month shortened statutory period for response was set. An amendment filed on January 3, 2003 was received without a request for a one-month extension of time or without authorization to charge a deposit account for an extension of time.

Therefore, the application was held abandoned for failure to timely respond to the Office action mailed September 5, 2002 as indicated in the Notice of Abandonment mailed May 5, 2003.

Petitioner argues that he filed the petition for extension of time and fee pursuant to instructions given to him by an employee of the Patent Office. Therefore, Rule 1.136(a) should be waived.

Petitioner is advised that there is no requirement on the part of the Office to inform applicant of fee deficiencies, although an attempt will be made to inform the applicant if noticed in time to avoid abandonment of the application. Further, the payment of the fee for an extension of time must be filed before the expiration of the period for response. See 37 CRF 1.136(a). In any event, it is noted that a one-month extension of time in dated March 14, 2003 would have been inadequate to make the response timely since the Office action mailed September 5, 2002 set a three-month shortened statutory period for response.

As to remedying this application, 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).

Petitioner may also formally file a petition to waive the rules under 37 CFR 1.183, which requires a fee of $130.00.

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."

The application is being forwarded to files repository.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 10/29/03

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Paper No. 12

JEAN-MARC ZIMMERMAN
226 ST PAUL STREET
WESTFIELD, NJ 07090

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Lin-Hendel :
Application No. 09/631,238 :
Filed: August 2, 2000 :
Attorney Docket No. Lin-Hendel 7 :

ON PETITION

This decision concerns the February 17, 2004 "Petition under 37 CFR 1.137(a) to Revive Abandoned Application."

The petition is **DISMISSED.**

On September 5, 2002, a non-final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On January 13, 2003 (Certificate of Mailing date January 3, 2003), an amendment was filed, but was not accompanied by the requisite extension-of-time fee. In addition, the application was filed without a constructive petition for an extension of time as provided in 37 CFR 1.136(a)(3). Accordingly, the application became abandoned on December 6, 2002.

The instant petition requests revival of the application under the "unavoidable" delay standard of 37 CFR 1.137(a).

A grantable petition under 37 CFR 1.137(a), in the instant case, must include:

(1) the required reply;[1]
(2) the $55 petition fee (small entity);[2]
(3) a **showing** to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date until the filing of a grantable §1.137(a)

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[1] The "required reply" to a non-final Office action may be: an argument or an amendment fully responsive to the Office action in question; the filing of a continuing application under 37 CFR 1.53(b); or the filing of a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if the utility application was filed on or after 6/8/95. MPEP 711.03(c)(III)(A) (Rev. 1, Feb. 2003). In the instant case, the 1/13/03 amendment satisfies this requirement.

[2] Enclosed with petition.

petition was unavoidable.[3]

As discussed below, the petition lacks item (3).

The USPTO record shows that on March 14, 2003, after the application had become abandoned, a request for a 1-month extension of time and a $55 payment were submitted. According to the instant petition, the March 14, 2003 submission was triggered by a telephone call from a USPTO employee. The Office notes that an alleged oral advise by a USPTO employee cannot be accepted as evidence in this petition.[4] Moreover, the offer of a request for an extension of time on March 14, 2003 indicates counsel's unfamiliarity with the fact that the 6-month statutory period had already expired by then. Unfortunately, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice . . . does not constitute "unavoidable" delay within the meaning 37 CFR 1.137(a).[5]

In view of the above, the petition is dismissed.

Options

(I) A renewed §1.137(a) petition may be filed to revive the application (no fee). To be grantable, such a renewed petition must:

-be filed within **TWO MONTHS** of the mailing date of this decision;[6]

-include **sufficient showing** that the **entire** delay in filing the required reply was "unavoidable";

and should be addressed as follows:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

(II) Applicant may revive the application based on unintentional abandonment under 37

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[3] An intentional delay in seeking the revival of an abandoned application precludes a finding of unavoidable delay under 37 CFR 1.137(a). See MPEP section 711.03(c)(III)(D) (Rev. 1, Feb. 2003); 35 U.S.C. 133; Douglas v. Manbeck, 21 U.S.P.Q.2d 1697; 1991 U.S. Dist. LEXIS 16404, 16412-13 (E.D. Pa. 1991); In re Takao, 1990 Dec. Comm'r Pat. 6, 10 (Comm'r Pat. 1990), 7 U.S.P.Q.2d 1155, citing Ex Parte Naef, 1905 Dec. Comm'r Pat. 121 (Comm'r Pat. 1905).

[4] See 37 CFR 1.2.

[5] MPEP 711.03(c)(III)(C)(2) (Rev.1 , Feb. 2003).

[6] 37 CFR 1.137(e)(1); extensions of time under 37 CFR 1.136(a) are available.

CFR 1.137(b).[7] For the instant application, such a petition requires a $665 petition fee (small entity),[8] and a **statement** that the **entire** delay in submitting the required reply to the September 5, 2002 Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional.[9]

While a §1.137(b) petition is not subject to the 2-month limitation, intentionally delaying the filing of such a petition defeats the purpose of this provision, and will result in dismissal of the petition.

A §1.137(b) petition, if filed, should also be addressed as instructed above.

Finally, the petition encloses a $210 check intended for a 2-month extension of time. However, an extension of time under 37 CFR 1.136 may only be obtained prior to expiration of the maximum extendable reply period.[10] The request for extension of time submitted with the instant petition, like the March 14, 2003 payment of $55 for a 1-month extension of time, is not applicable, in that, it is filed subsequent to the maximum extendable reply period, i.e., subsequent to March 5, 2003. The 2 fees, totaling $265, have been refunded.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[7] Such petitions are evaluated under the less stringent "unintentional delay" standard. MPEP section 711.03(c)(III)(C) (Rev. 1, Feb. 2003). The dismissal or denial of a §1.137(a) petition does not preclude an applicant from obtaining relief under §1.137(b) unless the decision dismissing or denying the §1.137(a) petition states otherwise. MPEP section 711.03(c)(III)(C)(2) (Rev. 1, Feb. 2003).

[8] A fee is required because a §1.137(b) petition is not a renewed §1.137(a) petition.

[9] See 37 CFR 1.137(b)(3).

[10] See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

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JEAN-MARC ZIMMERMAN
226 ST PAUL STREET
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Lin-Hendel, Catherine :
Application No. 09/631,238 :
Filed: August 2, 2000 :
Title: SYSTEM AND METHOD FOR CONSTRUCTING AND DISPLAYING ACTIVE VIRTUAL REALITY CYBER MALLS, SHOW ROOMS, GALLERIES, STORES, MUSEUMS, AND OBJECTS WITHIN :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 28, 2006, to revive the above-identified application. The Office regrets the delay in acting on the petition.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a previously submitted Response (January 13, 2003); (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]

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/21/2010

Applicant	: Catherine Lin-Hendel	: DECISION ON REQUEST FOR
Patent Number	: 7574381	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/631,238	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1827** 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

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BARNES & THORNBURG LLP (IT)
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Carl T Wittwer	: DECISION ON REQUEST FOR
Patent Number	: 7273749	: RECALCULATION of PATENT
Issue Date	: 09/25/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/631,339	: OF WYETH
Filed	: 08/03/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1445 ROSS AVENUE
DALLAS, TX 75202-2799

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OFFICE OF PETITIONS

In re Application of :
Shin-Ping Liu et al. :
Application No. 09/631,368 : ON PETITION
Filed: August 2, 2000 :
Attorney Docket No. 41276-00005 :

This is a decision on the petition filed December 28, 2005, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition also pleads in the alternative to revive the instant application under 37 CFR 1.137(a) or 1.137(b).

The petition under 37 CFR 1.181(b) is **DISMISSED.**
The petition under 37 CFR 1.137(a) is **DISMISSED.**
The petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned July 26, 2005 for failure to timely pay the issue fee on or before July 25, 2005. Accordingly, a Notice of Abandonment was mailed November 30, 2005.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides affidavits from two individuals responsible for receiving mail and docketing. In this instance both Shauna Steele and Elaine Barnes affirm that a search of the file and docket records show that the Notices mailed April 25, 2005 were not received and that petitioners did not learn of the Notices or the Abandonment until the Notice of Abandonment was received.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. Only the statements from Ms. Steele and Ms. Barnes accompanied the petition. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). 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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Since petitioners have failed to establish that the office communication wasn't in fact received, and since the unavoidable argument is based on non-receipt, they've also not shown that the delay in responding to the Notice of Allowance was unavoidable.

Instead and in view of the petition alternatively pleading under the unintentional standard and authorizing charges from deposit account, 50-2816, the issue fee and petition fee under 37 CFR 1.137(b) in the amount of $1400.00 and $1500.00, respectively, have been charged.

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Furthermore, since the petition was treated under the unavoidable standard the petition fee paid cannot be refunded. As well, it should be known that the petition fee and the issue fee have been charged at the large entity rate since a review of the record does not reveal that this application has verified that it is entitled to the small entity rate.

Since the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: APR 12 2002

WAK
Paper Number ~~10~~ 9

In re application of
King et al.
Serial No. 09/631,412
Filed: August 3, 2000
For: INK JET PRINTING METHOD

DECISION
ON PETITION

This is a decision on the petition, filed on February 04, 2002, originally under 37 CFR 1.183, requesting that the time for responding to the Office Action, dated August 03, 2001, be reset due to the events of September 11th and aftermath because a timely response to the action was unable to be filed prior to the November 03, 2001 deadline. Applicants' representative submitted a letter on March 19, 2002 requesting withdrawal of petition under 37 CFR 1.183 and submitting petition under 37 CFR 1.181 (a)(1) requesting restart of the office action.

DECISION

The instant response is accepted as a petition under 37 CFR 1.181 (no fee), and is considered pursuant to MPEP 710.06 which relates to resetting the period for response due to late receipt of a PTO action. Since the maximum extendable period for reply has expired, the Office action cannot be remailed and the period for reply set in the action cannot be restarted. If a reply has not been filed within the time period, the applicant may file a petition to revive under 37 CFR 1.137(a). A petition fee has been charged against applicants' deposit account twice and will be refunded. The amount of $260 will be credited to account 50-1541.

The Petition is **DISMISSED**.

Applicants' representative requested that if the petition is denied that the three month extension fee of $920 be charged . As the petition is dismissed and not denied the fee has not been charged.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Dara L. Onofrio
233 Broadway
Suite 2702
New York, NY 10279-2799

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COMMISSIONER FOR PATENTS
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Paper No. None

JAMES A. SHERIDAN
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595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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OFFICE OF PETITIONS

In re Application of
Donald J. Macleod et al.
Application No. 09/631,438
Filed: August 2, 2000
Attorney Docket No. A-59709-3/JAS
Title: METHOD TO REDUCE TORQUE RELATED AUDIBLE NOISE FOR SPINDLE MOTOR

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed June 27, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed October 21, 2002, which set a shortened statutory period for reply of three (3) months. On March 18, 2003, an amendment was received, along with a three-month extension of time, along with a two-month extension of time. On July 31, 2003, an advisory action was mailed, indicating that the amendment failed the place the application in condition for allowance. No further extensions of time were received. Accordingly, the above-identified application became abandoned on March 22, 2003.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee, and has made the proper statement of unintentional delay. The RCE has been accepted as the required reply under

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.

37 C.F.R. §1.137(b)(1). The amendment, previously filed on March 18, 2003, shall serve as the required submission.

As such, the petition is **GRANTED**.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for consideration of the submission under 37 C.F.R. §1.114, the previously filed amendment.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: JAMES A. SHERIDAN
MOSER, PATTERSON & SHERIDAN, L.L.P.
350 CAMBRIDGE AVENUE, SUITE 250
PALO ALTO, CA 94306

PTO/SB/17 (10-07)
Approved for use through 06/30/2010 OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2540.00

Complete if Known	
Application Number	09/631552
Filing Date	8/3/2000
First Named Inventor	Dwyer et al
Examiner Name	
Art Unit	
Attorney Docket No.	10001218-1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 08-2025 Deposit Account Name: Hewlett-Packard

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

Total Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 20 or HP =	_____	x	_____	=	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 3 or HP =	_____	x	_____	=	_____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	_____	/ 50 =	_____ (round up to a whole number)	x	_____	=	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Petition fee and 4 year Maintenance fee	2540.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 27,196	Telephone 408-447-4447
Name (Print/Type)	Douglas M. Gilbert		Date June 12, 2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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)
6701518	2004-03-02	09631552	2000-08-03	10001218-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
●	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

● An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	DM Gilbert	Date (YYYY-MM-DD)	2007-06-12
Name	Douglas M Gilbert	Registration Number	27196

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.**

OIPE JC42
OCT 12 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/631,616	08/04/2000	Stephen C. Kowalczykowski	2307O-097910US

CONFIRMATION NO. 2750

FORMALITIES LETTER

OC000000006158316

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/07/2001

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821 (f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/631,616	08/04/2000	Stephen C. Kowalczykowski	2307O-097910US

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OIPE JC8 DEC 04 2000 PATENT & TRADEMARK OFFICE

FORMALITIES LETTER

OC000000005545778

Date Mailed: 11/09/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit **$ 690** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $162.
  - **$162** for **9** total claims over 20.
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

- **The balance due by applicant is $ 982.**

12/06/2000 WKORONA 00000075 201430 09631616
01 FC:101 710.00 CH
02 FC:105 130.00 CH
03 FC:103 162.00 CH

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

SECTOR 1/2

PATENT
Attorney Docket No.: 2307O-097910US
UC Case No.: 2000-025-2

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

On Dec. 1, 2000

TOWNSEND and TOWNSEND and CREW LLP

By: Kathryn A. Deglianton

OIPE
DEC 04 2000
JC8
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Stephen C. Kowalczykowski, et al.

Application No.: 09/631,616

Filed: August 4, 2000

For: SINGLE STRANDED DNA BINDING PROTEINS FROM ARCHAEA AND USES THEREFOR

Art Unit: 1645

RESPONSE TO NOTICE TO FILE MISSING PARTS

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Non-Provisional Application Dated November 9, 2000, enclosed are the following to be made of record in the above-identified application:

1. Executed Declaration
2. Power of Attorney by Assignee and Exclusion of Inventors;
3. Certificate Under 37 C.F.R. § 3.73(b) and copy of Assignment as sent to the PTO for recordation; and
4. Copy of Notice of Missing Parts.

Please charge Deposit Account No. 20-1430 for the following fees:

PATENT

Large Entity:	(a)	Filing Fee (§ 1.16(a)) (Large Entity)		$710.00
	(b)	Excess Claims Fees (§ 1.16(b), (c)):		
		29 - 20 = 9	x $18.00 =	$162.00
		2 - 3 = 0	x $80.00 =	$0.00
	(c)	Missing Parts Surcharge		$130.00
		TOTAL FEES TO BE CHARGED		$1,002.00

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430. This Transmittal Letter is submitted in triplicate.

Respectfully submitted,

Laurence J. Hyman
Reg. No. 35,551

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
LJH:kad
SF 1145403 v1

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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OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Takafumi Itoh et al :
Application No. 09/631,698 : ON PETITION
Filed: August 3, 2000 :
Attorney Docket No. 195029US

This is a decision on the petition filed, July 3, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DALLAS OFFICE OF
FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of		
Richard William Ezell	:	
Application No. 09/631,743	:	
Filed: August 4, 2000	:	NOTICE
Patent No.: 6,771,124	:	
Issued: August 3, 2004	:	
For: SYSTEM AND METHOD	:	
FOR LOW-NOISE AMPLIFIER	:	
WITH A HIGH FREQUENCY RESPONSE	:	

This is a notice regarding your request to change your entity status to large.

Office records reveal that Microtune (Texas), L.P., 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. 4

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APR 10 2001

OFFICE OF PETITIONS
A/C PATENTS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

In re Application of
MacKay, et al.
Application No. 09/631,810
Filed: August 3, 2000
Attorney Docket No. P/2167-221

DECISION GRANTING PETITION

This is a decision on the petition filed October 27, 2000, requesting that the "Notice of Omitted Item(s)" mailed on October 2, 2000, be withdrawn.

On August 3, 2000, the application was filed. On October 2, 2000, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of August 3, 2000, and advising applicants that pages 2, 3 and 25 of the specification appeared to have been omitted.

In response, on October 27, 2000, applicants filed, inter alia, the present petition, a copy of pages 2, 3 and 25 of the specification, and a $130.00 petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of ninety-nine (99) pages of specification, including claims and abstract in the United States Patent and Trademark Office (Office) on August 3, 2000. Applicants request that the application, including pages 2, 3 and 25 of the specification, be accorded a filing date of August 3, 2000, and the petition fee be refunded.

Upon review of the record, pages 2, 3 and 25 of the specification, deposited on August 3, 2000, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 3, 2000, included pages 2, 3 and 25 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including pages 2, 3 and 25 of the specification, was complete on filing and entitled to a filing date of August 3, 2000.

Accordingly, the petition is granted.

The Notice mailed October 2, 2000, was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to counsel's Deposit Account No. 15-0700.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 3, 2000, using the ninety-six (96) pages of specification submitted on August 3, 2000, and the three (3) pages of specification (pages 2, 3, and 25) submitted on October 27, 2000.

Any inquiries related to this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CTT

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Mackay et al :
Application No. 09/631,810 : ON PETITION
Filed: August 3, 2000 :
Attorney Docket No. 72167.000221

This is a decision on the petition, filed October 31, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,892	08/04/2000	Joseph D. Lichtenhan	38559-257945(6565-03)	1993

7590 04/01/2002

Pillsbury Winthrop LLP
Intellectual Property Group
50 Fremont Street
San Francisco, CA 94120-7880

EXAMINER
ROBERTSON, JEFFREY

ART UNIT	PAPER NUMBER
1712	10

DATE MAILED: 04/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-10

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

Part of Paper No.10

In re application of	:	
Lichtenhan et al.	:	DECISION ON
Serial No. 09/631,892	:	REQUEST UNDER
Filed: August 4, 2000	:	37 CFR 1.48(a)
For: PROCESS FOR THE FORMATION OF	:	
POLYMERIC OLIGOMERIC SILSESQUIOXANES	:	

This is a response to the REQUEST FOR CORRECTION OF INVENTORSHIP UNDER 37 C.F.R.§ 1.48(a), filed November 20, 2001. The request is that Qibo Liu be added as an inventor in the instant application.

37 CFR 1.48(a) requires that the request to correct the inventorship be accompanied by: (1) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The instant request has not fulfilled items (1), (2), and (4) of these requirements. Therefore, the request is denied.

The Request is **DENIED**.

Robert A. Dawson

Robert A. Dawson
Supervisory Patent Examiner
Technology Center 1700

PILLSBURY WINTHROP LLP
Intellectual Property Group
50 Fremont Street
San Francisco, CA 94120-7880

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PILLSBURY WINTHROP LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of :
Joseph D. Lichtenhan, et al. :
Application No. 09/631,892 :
Filed: August 4, 2000 :
Attorney Docket No. 38559-257945(6565-03) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 31, 2003, 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. Accordingly, the application became abandoned on July 1, 2004.

It is noted that the block for the signature of the person making the statement of unintentional delay is not signed. Accordingly, the block for the "signature of practitioner" is signed. Nevertheless, the statement of unintentional delay in the petition is being treated as having been made as a 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.

Receipt is acknowledged of the Amendment filed October 14, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 1700, Art Unit 1712 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DORSEY & WHITNEY
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400, 1420 FIFTH AVENUE
SEATTLE, WA 98101

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Salman Akram et al	:	
Application No. 09/631,900	:	ON PETITION
Filed: August 4, 2000	:	
Attorney Docket No. 500185.03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 10, 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 11, 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.

Pursuant to petitioner's authorization, Deposit Account No. 50-1266 was charged an additional of $1,200.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2827.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC64
FEB 03 2004
PATENT & TRADEMARK OFFICE

PATENT

I hereby certify that on the date specified below, this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Mail Stop RCE, P.O. Box 1450, Alexandria, VA 22313-1450.

January 28, 2004 — T. Miller

Date — Tamra Miller

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	: Salman Akram, Alan G. Wood and Warren M. Farnworth	Attorney Docket No.	: 500185.03
Serial No.	: 09/631,900	Group Art Unit	: 2827
Filed	: August 4, 2000	Examiner	: Lourdes C. Cruz
Title	: APPARATUS AND METHODS OF TESTING AND ASSEMBLING BUMPED DEVICES USING AN ANISOTROPICALLY CONDUCTIVE LAYER		

PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(b)

Mail Stop RCE
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please revive the above-identified application, which was unintentionally abandoned for failure to respond to the deadline for filing a notice of appeal.

Submitted herewith is a check in the amount of $900.00, which includes $130.00 to cover the cost of the Petition To Revive and $770.00 to cover the cost of the Request For Continued Examination. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-1266.

02/04/2004 EFLORES 00000162 09631900
02 FC:1460 130.00 OP
Adjustment date: 04/06/2004 AKELLEY
02/04/2004 EFLORES 00000162 09631900
02 FC:1460 -130.00 OP
04/06/2004 AKELLEY 00000004 501266 09631900
01 FC:1453 1200.00 DA 130.00 OP

Respectfully submitted,
DORSEY & WHITNEY LLP

Steven H. Arterberry
Registration No. 46,314

Enclosures:
- Postcard
- Check
- Fee Transmittal Sheet (+ Copy)
- Request for Continued Examination (+ copy)

1420 Fifth Avenue, Suite 3400
Seattle, WA 98101
Tel: (206) 903-8800
Fax: (206) 903-8820

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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. 121103

DEC 16 2003

DORSEY & WHITNEY LLP
1420 Fifth Avenue, Suite 3400
Seattle, WA 98101-4010

In re Application of:
AKRAM *et al.*
Serial No.: 09/631,900
Filed: August 4, 2000
Attorney Docket No.: **500185.03**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a response to the communication filed on May 13, 2003. The communication has been treated as having been filed 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 to the extent that the proposed after final amendment has been considered but denied as to withdrawal of the holding of abandonment.

This application became abandoned for failure to timely respond to the final Office action mailed on September 10, 2002.

The petitioner asserts that a timely response was mailed to the United States Patent & Trademark Office (USPTO) on December 10, 2002. To support this assertion, petitioner has provided a copy of the response to the final Office action bearing a certificate under 37 CFR § 1.8(a) showing a date of mailing of December 10, 2002, a copy of the post card receipt acknowledging receipt in the USPTO on December 17, 2002 and a declaration in support of the petition.

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 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.

Consideration of proposed after final amendments are addressed in 37 CFR § 1.113, 37 CFR §1.116, and MPEP § 714.13 reproduced, in part, below:

37 CFR § 1.113 (c) states, in part, the following:

"(c) reply to a final rejection or action must include cancellation of or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form."

37 CFR § 1.116 (b) and (c) state, in part, the following:

"(b) ... amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, an amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment..."

"(c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented."

Section 714.13 of the MPEP states, in part, the following:

"An amendment filed at any time after final rejection but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions."

* * *

"It should be noted that under 37 CFR § 1.181(f), the filing of a 37 CFR § 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application. See MPEP § 1207 for appeal and post-appeal procedure."

Under current practice, the proposed after final amendment would be entered if it *prima facie* placed the application in condition for allowance. The examiner, after consideration of the proposed after final amendment has determined that the proposed amendment did not *prima facie* place the application in condition for allowance for the reasons set forth in the Advisory Action mailed concurrently herewith.

In view of the above stated reasons, the application remains abandoned and the petition to withdraw the holding of abandonment for the above-identified application is denied.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Petitioner may wish to consider filing a petition under 37 CFR § 1.137(a) or (b) requesting that the application be revived. It is noted that this petition is titled "Petition to Revive under 37 CFR § 1.137(b)," however, withdrawal of abandonment for reasons of erroneous abandonment do not apply under this rule.

A petition under 37 CFR § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR § 1.137(c); and (4) the petition fee as set forth in 37 CFR § 1.17(m). No consideration to the substance of a petition will be given until this fee is received.

Inquiries regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6439592
Issue Date: August 27,2002
Application No. 09631982
Filed: August 3,2000
Attorney Docket No. CHRI-003/00US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 2,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6439592	2002-08-27	09631982	2000-08-03	CHRI-003/00US

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	/Erik B. Milch/	Date (YYYY-MM-DD)	2006-11-02
Name	Erik B. Milch	Registration Number	42887

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. 6416234
Issue Date: July 9,2002
Application No. 09632068
Filed: August 3,2000
Attorney Docket No. 06948.105022

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 30,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,416,234	2002-07-09	09/632,068	2000-08-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael L. Wach/	Date (YYYY-MM-DD)	2010-07-30
Name	Michael L. Wach	Registration Number	54517

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED

MAR 0 7 2003

Technology Center 2100

Paper No. 7

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of:	)	
Dave Leahy, et al.	)	
Application No. 09/632,154	)	**DECISION ON REQUEST FOR**
Filed: August 3, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: SCALABLE VIRTUAL WORLD	)	
CHAT CLIENT-SERVER SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed February 24, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

MAIL

Paper No. 16

AUG 4 - 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Zimmerman & Levi, LLP
226 St. Paul Street
Westfield, New Jersey 07090

In re Application of: Dave Leahy et al.)
Application No. 09/632,154)
Filed: August 3, 2000)
For: SYSTEM AND METHOD FOR)
ENABLING USERS TO INTERACT)
IN A VIRTUAL SPACE)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed March 17, 2003, 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(h) 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 Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

MAILED

JUL 09 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,936,024 :
Issue Date: August 30, 2005 :
Application No. 09/632,519 :
Filed: August 4, 2004 :
Attorney Docket No. 120057-010204/US :

This is a decision on the petition under 37 CFR 1.378(c), filed May 24, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 30, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include a patent number and an application number. See 37 CFR 1.366(c).

It is noted that petitioner was supplied the incorrect patent number on the present petition, however petitioner has identified the correct serial number as 09/632,519 as well as other identifiers. Since a mandatory identifier pursuant to § 1.366 accompanied the maintenance fee, the maintenance fee and surcharge will be accepted for this patent.

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 undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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THEROX, INC.
2400 MICHELSON DRIVE
IRVINE CA 92612

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JUN 24 2005
OFFICE OF PETITIONS

In re Application of :
Spears et al. : DECISION ON PETITION
Application No. 09/632,530 :
Filed: August 4, 2000 :
Attorney Docket No. PA074-US :

This is a decision on the petition under 37 CFR 1.137(a), filed March 24, 2005, to revive the above-identified application.

On December 27, 2004, the Office mailed a Notice of Non-Compliant Amendment, stating that the document filed on October 7, 2004, was considered non-compliant because it failed to meet the requirements of 37 CFR 1.121. The Notice set a time period of one-month from the mailing date of the Notice to respond. Extensions of the time period were available under 37 CFR 1.136(a).

On January 4, 2005, petitioners submitted a "Response to Notice of Non-Compliant Amendment (37 CFR 1.121)." In response, on March 15, 2005, an Office action was mailed, which indicated that the reply filed on January 4, 2005, was not fully responsive to the prior the Office Action. The Office Action stated that the period for reply set forth in the prior Office Action had expired and that the application would become abandoned unless petitioners corrected the deficiency and obtained an extension of time to respond. Therefore, to avoid abandonment of the application, petitioners have until June 27, 2005, to correct the deficiency and submit a request for an extension of time for response within the fifth month.

On March 24, 2005, petitioners submitted a petition to revive under 37 CFR 1.137(a), a Supplemental Response, and an authorization to charge the Deposit Account for any necessary fees. However, the Office notes that the application is currently not abandoned because petitioners have submitted the required response within the extendable period of time as set forth in the Notice of Non-Compliant Amendment of December 27, 2004. The Notice set a one-month period of time to respond. The Notice permitted petitioners to extend the period for five more months (June 27, 2005). Accordingly, the petition is **dismissed** as involving a moot issue.

The petition will be treated as a request for an extension of time for response within the second month. The application will remain in its pending status. The $225.00 extension of time fee will be charged to Deposit Account No. 50-1769, as authorized in the Fee Transmittal submitted on March 24, 2005.

This matter is being referred to Technology Center Art Unit 1724 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of
Rainer Siebert et al
Application No. 09/632,573
Filed: August 4, 2000
Attorney Docket No. 15675.P299x

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 20, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on March 22, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed May 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2004.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

This matter is being referred to Technology Center AU 1753 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

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUN 24 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of Brandon Lee Hall et al. Application No. 09/632,699 Filed: August 4, 2000 For: METHODS AND SYSTEMS FOR TRADING PERMANENT SEAT LICENSES	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on February 10, 2003 and supplemented on June 19, 2003.

The petition is **GRANTED**.

A review of the file records indicates that an Office action was mailed to applicants on July 5, 2002. Since no timely response to the July 5, 2002 Office action was received, the application was held to be abandoned, and a Notice to that effect was mailed on January 28, 2003.

Applicants' petition includes a copy of a response bearing a Certificate of Facsimile Transmittal date of October 2, 2002. A statement by Tracey S. Wright was received on June 19, 2003, which attests to the personal knowledge of the transmission of the response on the date indicated on the Certificate of Facsimile Transmittal. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-3868

SNM/tpl: 6/20/03

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,707	08/04/2000	James W. Forbes	5699-12	2718

21324 7590 06/21/2006
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

EXAMINER
GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
3612	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael H. Minns
Hahn Loeser & Parks LLP
One GoJo Plaza, Suite 300
Akron, OH 44311

In re Patent No. 6,709,207	:	
Issue Date: March 23, 2004	:	**DECISION ON PETITION**
Application No. 09/632,707	:	**TO CHANGE INVENTORSHIP**
Filed: April 5, 2002	:	**UNDER 37 CFR 1.324**
For: MOLDED ENERGY ABSORBER	:	

Patentee's petition under 37 CFR 1.324 filed June 5, 2006 requests the addition of Alistair Wilson as a co-inventor in the above cited patent.

Any request to correct inventorship of a patent pursuant to paragraph 37 CFR 1.324(b) must be accompanied by:

(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 inventors who have not submitted a statement under paragraph (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 paragraphs (1) and (2) of this section agreeing to the change of inventorship in the patent; and
(4) The fee set forth in § 1.20(b)

The petition includes a statement from the added inventor stating that the error occurred without any deceptive intent, the written consent of the assignee agreeing to the change and the requisite fee.

However, the petition does not include item (2), a statement from the current named inventors agreeing to the change.

The petition is **DISMISSED**.

D. Glenn Dayoan, SPE
Art Unit 3612
(703) 308-3102

DGD: 06/08/06

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Paper No. 32

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OFFICE OF PETITIONS

Isaf Vaughan & Kerr
P O Box 72060
Atlanta, GA 30358-2601

In re Application of
Clyde C. Bryant
Application No. 09/632,739
Filed: August 4, 2000
Attorney Docket No.E025 1031

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on September 29, 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 August 29, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

A review of the application file record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

---

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3746 for processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Womble Carlyle Sandridge & Rice, P.L.L.C.
P.O. Box 7037
Atlanta, GA 30357-0037

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ALEXANDRIA, VA 22313-1450
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Paper No. 37

ISAF VAUGHAN & KERR
P O BOX 72060
ATLANTA, GA 30358-2601

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MAY 06 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Clyde C. Bryant :
Application No. 09/632,739 :
Filed: August 4, 2000 :
Attorney Docket No. E025 1031 :

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed by facsimile transmission on May 4, 2004.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid, November 10, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

A review of the record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 3746 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LOUIS T. ISAF
WOMBLE CARLYLE SANDRIDGE & RICE, P.L.L.C..
P. O. BOX 7037
ATLANTA, GA 30357-0037

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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.
09/632,748	08/04/2000	Barbara A. Gilchrest	0054.1087-010	2365

21005 7590 01/21/2004

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER
GUCKER, STEPHEN

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO Box 1450 Alexandria VA 22313-1450
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JAN 22 2004

HAMILTON, BROOK, SMITH AND REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:
GILCHREST et al	:
Serial No.: 09/632,748	: Decision on Petition
Filing Date: 4 AUGUST 2000	:
Attorney Docket No 0054.1087-010	:

This letter is in response to the Petition filed under 37 CFR 1.144, to withdraw the restriction requirement, filed with a certificate of mailing date of 15 September 2003. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on 4 August 2000 under 35 USC 111(a).

In Paper No. 9, mailed 21 June 2002, the Office restricted the 32 claims into ten patentably distinct groups. Since the groupings within the restriction requirement are not part of the petition, they will not be discussed further. The Examiner also set forth an election of species as summarized below:

(a) peptide comprising KGK
(b) peptide comprising KGA
(c) SEQ ID No. 4
(d) SEQ ID No. 9 or
(e) SEQ ID No. 10.

The restriction requirement failed to give any reasons why species (a)-(e) were patentably distinct. Applicants elected Group VII, original claims 10 (in part), 11 and 12 and the species "peptide comprising KGA."

In the first Office action on the merits, mailed 19 November 2002, the examiner conceded that the traversal was partially persuasive. The Examiner indicated that new Group II (perhaps the Examiner had intended to say Group VII?) claims 10-11 and 14-15 and the peptide sequence KGA would be examined. From the Office action, it is not clear how linking claims 10, and 14, which are found in both groups VI and VII and VIII and IX, were divided. The Office action is unclear with regard to which groups were rejoined. Claims 1-9, 12-13 and 16-32 were withdrawn from further consideration, citing 37 CFR 1.142(b), as being drawn to non-elected invention.

The response filed 23 April 2003 amended claims 10 and 14 and added new claims 33-38.

On 14 July 2003, the Office mailed a final action, in which Claims 10, 14, 33-34 and 36-37 were examined and rejected under 35 USC 102(b) as being anticipated by Reams. Claims 1-9, 12-13, 16-32, 35 and 38 were withdrawn from consideration. The examiner reasoned that claims 35 and 38 were directed to independent and distinct inventions because none of the sequences were elected as the species to be examined in Paper No. 11, filed 8/30/02. Applicants were advised that if they wished to have claims narrower in scope searched and examined, they may file a divisional application.

Applicants filed remarks and this petition on 22 September 2003.

An advisory action was mailed 24 December 2003.

DISCUSSION

The application, file history and petition have been considered carefully.

The petition requests that claims 35 and 38 be examined together with the elected invention.

Independent claim 10, dependent claim 34, reciting elected species, peptide comprising KGA (lysine-glycine-alanine), and new claim 35, withdrawn as being directed to non-elected invention, are presented below.

> 10. (Amended) A method of maintaining or inducing hair color in a mammal, said method comprising inhibiting p75 nerve growth factor receptor-mediated apoptosis in epidermal melanocytes wherein the apoptosis is inhibited by contacting the melanocytes with a neurotrophin or a biologically active fragment

thereof that binds to the p75 nerve growth factor receptor expressed on melanocytes.

34. (New) The method of Claim 10 wherein the biologically active fragment is a peptide comprising amino acid sequence lysine-glycine-alanine.

35. (New) The method of Claim 34 wherein the peptide consists of SEQ ID NO:4, SEQ ID NO:9 or SEQ ID NO:10.

Claims 14, 37 and 38 follow a similar format.

It is noted that claim 35 is narrower in scope from and properly depends from claim 34, reciting the elected species. Moreover, new claim 38 is narrower in scope from and properly dependent upon claim 14.

The petition states that amino acid sequences of SEQ ID Nos. 4, 9 and 10 are as follows:

SEQ ID NO:4 - CVGSN**KGA**IC
SEQ ID NO:9 - CATDI**KGA**EC
SEQ ID NO:10 – C**KGA**IC

As highlighted in bold, above, each of the sequences contain the elected "species" KGA (lysine-glycine-alanine). The remaining sequences surrounding the shared trimer KGA are not significantly similar.

The Restriction Requirement invited applicants to elect a species from a group that included a genus of molecules, those comprising KGA or KGK, and then three species, which fall into the scope of peptides comprising KGA. As such, the species requirement was incorrect. Once it had become apparent the elected "species" encompasses some of the other species, reconsideration of the species election is in order, since the Office has not defined patentably distinct subject matter.

The Examiner was incorrect in withdrawing claims 35 and 38 from examination. If SEQ ID Nos. 4, 9 and 10 represent patentably distinct inventions, (and this determination has yet to be properly made in this application) then claims 10, 14, 34 and 37 with the election of the species "peptide comprising KGA" are linking claims and should be treated as such. MPEP 809 provides guidance on treatment of linking claims.

MPEP 809 states that

> Where, upon examination of an application containing claims to distinct inventions, linking claims are found, restriction can nevertheless be required. See MPEP § 809.03 for definition of linking claims. A letter including only a restriction requirement or a telephoned requirement to restrict (the latter being encouraged) will be effected, specifying which claims are considered linking. See MPEP § 812.01 for telephone practice in restriction requirements. No art will be indicated for this type of linking claim and no rejection of these claims made.

> A 1-month (not less than 30 days) shortened statutory period will be set for reply to a written requirement. Such action will not be an "action on the merits" for the purpose of the second action final program. To be complete, a reply to a requirement made according to this section need only include a proper election. The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or includes all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability.

If the peptides of SEQ ID No 4, 9 and 10 represent patentably distinct inventions, then the Examiner needs to inform applicants of such and allow them to chose which of the three sequences they wish to have examined along with the elected invention. Should the linking claim become allowable, then the species need to be rejoined for examination.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The finality of the Office action has been withdrawn. The restriction between Species (b), peptide comprising KGA, and Species (c), SEQ ID No. 4, Species (d) SEQ ID No. 9 and Species (e) SEQ ID No. 10 has been withdrawn because each of SEQ ID No. 4, 9 and 10 are peptides comprising KGA.

The application is being forwarded to the Examiner for action consistent with this petition decision.

If claims reciting Species (b) are not in condition for allowance, the Examiner may set forth an election of species among Species (c), SEQ ID No. 4, Species (d) SEQ ID No. 9 and Species (e) SEQ ID No. 10 to allow applicants the opportunity to chose which of the three SEQ ID Nos. they want to have considered first. This election of species should properly explain why the species are independent and patentably distinct and why it would be a unduly burdensome to search the three sequences together with elected Species (b), peptide comprising KGA.

Should claims reciting Species (b) become allowable, then all dependent claims reciting SEQ ID Nos. 4, 9 and 10 should be rejoined for examination.

The Examiner is also requested to clarify which groups were rejoined in response to the election and traversal.

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, P.O. Box 1450, Alexandria VA, 22313-1450 or by telephone at (703) 308-7553 or by facsimile transmission at (703) 308-7230.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Barbara A. Gilchrest, Mina Yaar and Mark Eller		
Application No.:	09/632,748	Group:	1647
Filed:	August 4, 2000	Examiner:	S. Gucker
Confirmation No.:	2365		
For:	METHODS OF INDUCING HAIR GROWTH AND COLORATION		

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the United States Patent and Trademark Office on:

January 30, 2004 Beverly Weinberger
Date Signature

Beverly Weinberger
Typed or printed name of person signing certificate

WITHDRAWAL OF PETITION FROM REQUIREMENT FOR RESTRICTION UNDER 37 CFR § 1.144

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants mailed to the U.S. Patent and Trademark Office on September 15, 2003 a paper entitled "Petition from Requirement for Restriction Under 37 C.F.R. § 1.144." In this paper, Applicants petitioned the Director to reconsider and withdraw the Supplemental Restriction in the Office Action made final mailed from the United States Patent and Trademark Office on 14 July 2003. Applicants now withdraw the Petition mailed to the U.S. Patent and Trademark Office on September 15, 2003. This paper is being filed concurrently with a Second Amendment After Final Rejection Under 37 C.F.R. § 1.116, in which the claims withdrawn by the Supplemental Restriction, Claims 35 and 38, were canceled, rendering the Petition moot.

09/632,748

Please charge any petition fees that may be due in this matter to Attorney's Deposit Account No. 08-0380.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Carol A. Egner

Carol A. Egner
Registration No. 38,866
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133
Dated: January 30, 2004

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

Daniel S. Hodgins
JACKSON WALKER, LLP
112 E. Peacan, Suite 2100
San Antonio, Texas 78205

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APR 18 2002

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Blum	:	
Application No. 09/632,838	:	ON PETITION
Filed: August 4, 2000	:	
Attorney Docket No. P-208704-04(UTI)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 13, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 14, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1656.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-05

Paper No: __

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JUL 0 6 2005

OFFICE OF PETITIONS

KENNETH BLUM
3707 CASTLE CREST
SAN ANTONIO TX 78230

In re Application of	:	
Blum	:	
Application No. 09/632,838	:	DECISION
Filing Date: 24 January, 2002	:	
Attorney Docket No. P-208704.04 (UTI)	:	

This is a decision on the petition filed on 27 April, 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) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(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 mailed on 12 November, 2004, with reply due under a non-extendable deadline on or

before Monday, 14 February, 2005;

- the application went abandoned after midnight 12 February, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- Petitioner paid the Issue Fee at the prior rate of $685.00, rather than at the rate current at the time the fee was paid–Petitioner always should review the current fee schedule at the Office website: www.uspto.gov).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) (copy of the form enclosed) are the petition and fee, the statment/showing of unintnetional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner failed to satisfy the "reply" (full Issue Fee) requirement under 37 C.F.R. §1.137(a) .

CONCLUSION

The petition:

- to withdraw the holding of abandonment under 37 C.F.R. §1.137 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: 12 November, 2004, Notice of Allowance and Notice of Allowability
Petition Form (37 C.F.R. §1.137(b))

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-05

Paper No: __

KENNETH BLUM
3707 CASTLE CREST
SAN ANTONIO TX 78230

COPY MAILED

AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Blum	:	
Application No. 09/632,838	:	DECISION
Filing Date: 24 January, 2002	:	
Attorney Docket No. P-208704.04 (UTI)	:	

This is a decision on the (renewed) petition filed on 9 August, 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) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 12 November, 2004, with reply due under a non-extendable deadline on or before Monday, 14 February, 2005;
- the application went abandoned after midnight 12 February, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the original petition was filed;
- with the original petition, Petitioner paid the Issue Fee at the prior rate of $685.00, rather than at the rate current at the time the fee was paid–Petitioner always should review the

current fee schedule at the Office website: www.uspto.gov), and so the petition was dismissed on 6 July, 2005;

- with the instant petition, Petitioner corrects the prior 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 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]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] 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 Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) (copy of the form enclosed) are the petition and fee, the statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements under 37 C.F.R. §1.137(a) .

CONCLUSION

The petition to revive under 37 C.F.R. §1.137 is **granted**.

Further correspondence with respect to this matter should be addressed as follows:

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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)
6,955,873	2005-10-18	09/632,838	2000-08-04	DRD-1001-UT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Daniel M. Chambers/	Date (YYYY-MM-DD)	2010-04-15
Name	Daniel M. Chambers	Registration Number	34561

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. 6955873
Issue Date: October 18,2005
Application No. 09632838
Filed: August 4,2000
Attorney Docket No. PRO-1001-UT

: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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 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.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/14/08

Patent No. : 7072390B1
Inventor(s) : Sorrells et al.
Issued : 7/4/06
Title : WIRELESS LOCAL AREA NETWORK (WLAN) USING UNIVERSAL FREQUENCY TRANSLATION TECHNOLOGY INCLUDING MULTI-PHASE EMBODIMENTS
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 [56] 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

STERNE KESSLER GOLDSTEIN & FOX PPLC
Attorneys at Law
1100 New York Avenue NW Suite 600
Washington, DC 2005-3934
HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/11/2006

TO SPE OF : ART UNIT 2600 (2616)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,054,296

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 – 2900 South Tower ste.9A43A
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.

Ok to enter changes in item (56) as requested in C of C? & enter 6,687,493? Yes

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JAY K. PATEL
SUPERVISORY PATENT EXAMINER

SPE

2616
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

MAIL

Paper No. 13

MAY 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of
Hisayuki YAZAWA, et al.
Application No. 09/632,875
Filed: August 4, 2000
For: MAGNETIC HEAD AND MANUFACTURING METHOD THEREFOR

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed January 14, 2004, requesting the holding of abandonment be withdrawn in the above-identified application. Petitioner has provided a copy of a date stamped post card receipt showing the petition was originally filed on November 4, 2002.

This application was held abandoned for failure to respond to the Restriction Requirement mailed February 20, 2002. A Notice of Abandonment was mailed October 1, 2002.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of a response on March 26, 2002. Petitioner has also submitted a copy of the response.

M.P.E.P. § 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The date stamped on the post card receipt of March 26, 2002 is subsequent to the due date for response to the Restriction Requirement of February 20, 2002. The Requirement set a 30 day period for response. However, the copy of the response includes a certificate of mailing certifying deposit on March 20, 2002 in accordance with 37 CFR 1.8(a). Accordingly, the copy of the response is accepted.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for entry of the copy of the response. From there, the file will be forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Yazawa, et al. : DECISION REFUSING STATUS
Application No. 09/632,875 : UNDER 37 CFR 1.47(a)
Filed: August 4, 2000 :
Atty. Dkt. No.: 9281/3753 :
For: THIN-FILM MAGNETIC HEAD :
HAVING A HIGH RECORDING DENSITY :
AND FREQUENCY :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 28, 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 August 4, 2000 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 2, 2000 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63 and 1.64. Specifically, 37 CFR 1.64(b) sets forth that "[i]f the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted herewith does not identify the deceased inventor nor does it identify the legal representatives as such; instead, the legal representatives appear to be improperly identified as joint inventors.

Any renewed petition must include a properly executed oath or declaration in compliance with 37 CFR 1.63 and 1.64.

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) 283-8300
By hand:	U.S. Patent & Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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 13 2006

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Yazawa, et al. : DECISION ON APPLICATION
Application No. 09/632,875 : FOR PATENT TERM ADJUSTMENT
Filed: August 4, 2000 :
Atty. Dkt. No.: 9281-3753 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 17, 2005. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 1141 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 1141 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 0 days, as indicated on the Determination of Patent Term Adjustment mailed September 16, 2005, to an adjustment of 1185 days.

A review of the application history reveals that as of the time of allowance, an overall adjustment of 1185 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1), an adjustment of 139 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began October 5, 2001, the day after the date that is 14 months after the date that the application was filed, and ended February 20, 2002, the date the restriction requirement was mailed. See 37 CFR 1.703(a)(1).

A further adjustment of 1046 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) for failure to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134

not later than four months after the date on which the reply was filed or the appeal was taken. The adjustment began July 27, 2002, the day after the date that is four months after the date that a response to the restriction requirement was filed, and ended June 6, 2005, the date that the Ex Parte Quayle Action was mailed.

The adjustment of 1185 days is reduced 44 days in accordance with 37 CFR 1.704(c)(4) in connection with the petition to withdraw the holding of abandonment filed January 14, 2004. The reduction began December 2, 2002, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ended January 14, 2004, the date the petition was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 1141 days.

Applicants have further indicated that the patent will issue more than three years from the date upon which it was filed.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(1)(B), 35 USC 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).

If, upon issuance of the patent, applicants believe that the period of adjustment under 37 CFR 1.702(b) and 1.703(b) has not been properly determined, applicants are advised to submit an application for patent term adjustment (and required fee) within the time period set forth at 37 CFR 1.705(d).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

This application is being retained in the Office of Petitions to await applicants' request for reconsideration under 37 CFR 1.47. To avoid abandonment of the application, applicants are reminded that

a request for reconsideration under 37 CFR 1.47 must be timely submitted.

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
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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MAY 05 2006

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of	:
Yazawa, et al.	: DECISION GRANTING STATUS
Application No. 09/632,875	: UNDER 37 CFR 1.47(a)
Filed: August 4, 2000	:
Atty. Dkt. No.: 9281/3753	:
For: THIN-FILM MAGNETIC HEAD	:
HAVING A HIGH RECORDING DENSITY	:
AND FREQUENCY	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed April 17, 2006.

The petition is **GRANTED**.

Petitioners have shown that the legal representive(s) of deceased inventor Masaki Ikegami has refused to execute the declaration for the above-identified application and/or cannot be reached or located for presentation and execution of same, and is thus unavailable.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Hiromi & Chiaki Ikegami
3-6-14 Funaoka, Ojiya-shi
Niigata-ken, Japan

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of

Yazawa, et al.
Application No. 09/632,875
Filed: August 4, 2000
Atty. Dkt. No.: 9281/3753
For: THIN-FILM MAGNETIC HEAD HAVING A HIGH RECORDING DENSITY AND FREQUENCY

: LETTER

Dear Sir:

You are named as the legal representative of deceased inventor Masaki Ikegami 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.

As the legal representative of the a named deceased inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No. 9

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

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OFFICE OF PETITIONS

In re Application of
Song, Sang-Uuk
Application No. 09/632,995
Filed: August 4, 2000
Attorney Docket No. 5000-1-122

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration 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 properly reply to the final Office action mailed June 5, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 6, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). Although petitioner timely submitted the Request for

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

Reconsideration on September 5, 2003, it failed to place the application in 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. An advisory action from the examiner is enclosed.

The Terminal Disclaimer filed on December 29, 2003 is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file.

Petitioner submitted a total of $1750.00 with the instant petition for payment of the $1330.00 petition fee and the $110.00 terminal disclaimer fee, leaving a $310.00 overpayment. Since the Terminal Disclaimer is unnecessary, the $110.00 fee, along with the $310.00 overpayment, will be refunded to petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 12

STEVE S. CHA
CHA & REITER
411 HACKENSACK AVE, 9TH FLOOR
HACKENSACK, NJ 07601

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MAR 1 8 2004
OFFICE OF PETITIONS

In re Application of
Song, Sang-Uuk
Application No. 09/632,995
Filed: August 4, 2000
Attorney Docket No. 5000-1-122

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 9, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 5, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 6, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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B. NOEL KIVLIN
MYERS, HOOD, KIVILIN, KOWERT & GOETZEL,. P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 09/633087	:	
Filing or 371(c) Date: 08/04/2000	:	
Attorney Docket Number:	:	
(TT3327)	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed January 31, 2008. The petition is properly treated under 37 CFR 1.181(a).

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.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 18, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on September 19, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment was mailed December 31, 2007.

Applicant files the present petition and states that the Office action was not received. Applicant states that it believes the Office action was not received because the Patent Office indicated the wrong correspondence address for this application. Applicants point out that a Notice of Change of Correspondence Address was filed on October 5, 2003. However, upon searching the file, Applicant notes from the correspondence received from the U.S. Patent and Trademark Office that Applicant's address had not been changed from previous counsel. Applicant believes that the correspondence may have been sent to the wrong address. Applicant files a copy of its docket records, and states that

> When an Office action requiring a response is received from the U.S. Patent Office by our office, the due date for responding to the Office action is entered into out computerized docketing system. The information is entered using the Attorney Docket Number identified

on the office action. The office action is subsequently routed to and physically placed into the corresponding application file.

Applicant's representative encloses a copy of the docket record corresponding to the above referenced application. If the allegedly mailed Office Action was received, the docket record would indicate a due date for response, the typical response to an Office Action. The enclosed docket record copy dos not show an Office Action response due date, thus indicating that the Office Action was not received from the U.S. Patent Office. Applicant's representative has searched the respective file and can find no indication of the allegedly mailed Office action therein.

Review of Office records

A review of Office records reveals that the Office action, along with two previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively, were inadvertently mailed to an incorrect correspondence address. Applicants received, docketed and responded to the prior Office actions; however, Applicants assert that this Office action was not received. Applicants do not explain how it is that the prior Office actions were received, docketed and responded to, over a period of more than two years after the correspondence address had changed. Instead, with the final Office action, Applicant's allege nonreceipt.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion

> that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of Applicant's docket records reveal that Applicants received, docketed and responded to previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively. Both Office actions were mailed well after the Applicants correspondence address had changed, and in the case of the latter non-final Office action, mailed October 20, 2006, it was mailed more than three years after the correspondence address change was filed. Yet this Office action was received, entered and docketed, and responded to by Applicant, including a one-month extension of time request and fee. Applicants took no issue with the mailing of the Office action to an incorrect mailing address. Applicants did not assert at that time, that the Office action was mailed to an incorrect correspondence address, possibly costing Applicant time in preparing and filing a response. Instead, Applicants paid the extension of time fee in order to render the reply, filed February 23, 2007, timely, without comment on the mailing of the Office action to an incorrect correspondence address.

Only now, with the mailing of the final Office action, does Applicant attempt to rely upon the non-entered change of correspondence address to support a re-mailing of the Office action and a resetting of the period for reply. In view of Applicant's reliance upon the docketing system as evidence that the final Office action, mailed to the previous correspondence address, was not received, and in view of evidence that the receipt of two previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively, both of which were mailed to the previous correspondence address, yet received by and responded to by Applicant, there is a question of whether the final Office action may have been lost after receipt.

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration and clarify for the record the inconsistency, and explain how it is that Office actions mailed to the prior correspondence address, one of which was mailed more than three years after the correspondence had changed, were received, entered and docketed, and responded to by applicant, while the final Office action, mailed less than eight (8) months after the non-final Office action and to the same previous correspondence address of record, does not point to a conclusion that the Office action was lost after receipt, rather than lost in the mail.

Alternate venue

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (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
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

B. NOEL KIVLIN
MYERS, HOOD, KIVILIN, KOWERT & GOETZEL,. P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 09/633087	:	
Filing or 371(c) Date: 08/04/2000	:	
Attorney Docket Number:	:	
(TT3327)	:	ON PETITION

This is a decision on the "Request for Reconsideration of Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed August 11, 2008. The petition is properly treated under 37 CFR 1.181(a).

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 18, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on September 19, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment was mailed December 31, 2007.

Applicants filed a petition on January 31, 2008, and stated that the Office action was not received. Applicants provided that it believed the Office action was not received because the Patent Office indicated the wrong correspondence address for this application. Applicants pointed out that a Notice of Change of Correspondence Address was filed on October 5, 2003. However, upon searching the file, Applicants noted from the correspondence received from the U.S. Patent and Trademark Office that Applicants' address had not been changed from previous counsel. Applicants believed that the correspondence may have been sent to the wrong address. Applicants filed a copy of their docket records, and stated that

When an Office action requiring a response is received from the U.S. Patent Office by our office, the due date for responding to the Office action is entered into out computerized docketing system. The information is entered using the Attorney Docket Number identified on the office action. The office action is subsequently routed to and physically placed into the corresponding application file.

Applicant's representative encloses a copy of the docket record corresponding to the above referenced application. If the allegedly mailed Office Action was received, the docket record would indicate a due date for response, the typical response to an Office Action. The enclosed docket record copy dos not show an Office Action response due date, thus indicating that the Office Action was not received from the U.S. Patent Office. Applicant's representative has searched the respective file and can find no indication of the allegedly mailed Office action therein.

Review of Office records

A review of Office records reveals that the Office action, along with two previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively, were inadvertently mailed to an incorrect correspondence address. Applicants received, docketed and responded to the prior Office actions; however, Applicants assert that this Office action was not received. Applicants do not explain how it is that the prior Office actions were received, docketed and responded to, over a period of more than two years after the correspondence address had changed. Instead, with the final Office action, Applicant's allege nonreceipt.

March 10, 2008 Decision dismissing the petition

On March 10, 2008, a Decision dismissing the petition was mailed. The Decision noted that a review of Applicants docket records revealed that Applicants received, docketed and responded to previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively. Both Office actions had been mailed well after the Applicant's correspondence address had changed, and in the case of the latter non-final Office action, mailed October 20, 2006, it was mailed more than three years after the correspondence address change was filed. Yet this Office action was received, entered and docketed, and responded to by Applicant, including a one-month extension of time request and fee. Applicants took no issue with the mailing of the Office action to an incorrect mailing address. Applicants did not assert at that time, that the Office action was mailed to an incorrect correspondence address, possibly costing Applicant time in preparing and filing a response. Instead, Applicants paid the extension of time fee in order to render the reply, filed February 23, 2007, timely, without comment on the mailing of the Office action to an incorrect correspondence address.

The Decision noted that only with the mailing of the final Office action, did Applicant attempt to rely upon the non-entered change of correspondence address to support a re-mailing of the Office action and a resetting of the period for reply. In view of Applicants' reliance upon the docketing system as evidence that the final Office action, mailed to the previous correspondence address, was not received, and in view of evidence that the receipt of two previous Office actions, mailed March 30, 2004 and October 20, 2006, respectively, both of which were mailed to the previous

correspondence address, yet received by and responded to by Applicant, there was a question of whether the final Office action may have been lost after receipt.

The petition was dismissed without prejudice

The present request for reconsideration

Applicants file the present request for reconsideration and provide that the previous Law Firm, Fletcher Yoder, forwarded both the prior Office actions; however, did not forward the final Office action. Applicants reiterate that this Office did not change the correspondence address.

Office records

1. Assignment records

A further review of Office records reveals that in the oath/declaration filed with the application on August 4, 2000, the inventors appointed the attorneys of Advanced Micro Devices, Inc, AND the law firm of Fletcher, Yoder & Van Someren, jointly, and each of them severally, attorneys, with full power of substitution, delegation and revocation, to prosecute the application.

A review of Office assignment records reveals that the inventors also executed assignments recorded in this Office on August 4, 2000. Two inventors assigned their interests in the present application to Aplha Processor Inc., and two inventors assigned their interests in the present application to Advanced Micro Devices, Inc. Thereafter Office assignment records reveal that API Networks, Inc., assigned their interest in the present application to Samsung Electronics Co., LTD. Office records do not reveal how API Networks, Inc., obtained an interest in the application.

2. Change of Correspondence Address

A review of the Notice of Change of Address filed October 3, 2008 reveals that it was executed by the Assistant Secretary of Advanced Micro Devices, Inc., only.

Applicable Law, Rules and MPEP

37 CFR 1.33, Correspondence respecting patent applications, reexamination proceedings, and other proceedings, provides in (b)(2)

> Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
> (b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

> (1) A 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 MPEP 601.03 provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

37 CFR 3.71(b), Patents — assignee(s) who can prosecute, states

> The assignee(s) who may conduct
> either the prosecution of a national application for patent or a reexamination proceeding are:
> (1) A single assignee . An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
> (2) Partial assignee(s) together or with inventor(s) . All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, <u>who together own the entire right, title and interest in the application or patent being reexamined</u>. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined. (Emphasis supplied).

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In <u>Delgar v. Schulyer</u>, 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 <u>Delgar</u>, 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 <u>Delgar</u> is applicable regardless of whether an application is held abandoned for failure to timely pay the issue

> fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

In this instance, the correspondence address change filed October 8, 2003 was executed by the Assistant Secretary of Advanced Micro Devices, Inc., only. At the time the correspondence address change was filed, Advanced Micro Devices, Inc., was a partial assignee, and not the owner of the entire right, title and interest in the application. As stated in the MPEP 601.03, the correspondence address could only be subsequently changed pursuant to 37 CFR 1.33(a)(2). The change of correspondence address executed by the partial assignee failed to comply with 37 CFR 1.33(b)(2), and was thuswas ineffective to change the correspondence address.

Conclusion

The petition is dismissed. Applicants may file a request for reconsideration. *After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner*. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Alternate venue

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the

date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

B. NOEL KIVLIN
MYERS, HOOD, KIVILIN, KOWERT & GOETZEL,. P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

COPY MAILED
DEC 15 2008

In re Application of	:	
Meyer et al.	:	
Application No. 09/633087	:	
Filing or 371(c) Date: 08/04/2000	:	
Attorney Docket Number:	:	
(TT3327)	:	ON PETITION

This is a decision on the "Second Request for Reconsideration of Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed December 10, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 18, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on September 19, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment was mailed December 31, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence in accordance with the MPEP 711.03(c)[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The correspondence address has been updated in accordance with the Notice of Change of Address filed on October 8, 2003.

[1] A review of Office records reveals that Applicant filed a Notice of Change of Address on October 8, 2003, changing the correspondence address; however, the correspondence address was inadvertently not changed, As such, subsequent correspondence was mailed to the prior (incorrect) correspondence address.

The application will be referred to Technology Center Art Unit 2157 for re-mailing of the Office action and re-setting the period for reply.

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

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.
09/633,107	08/04/2000	Michael John Taylor	01435.0076	2110

22852 7590 03/01/2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER
HARLAN, ROBERT D

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 03/01/2002

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. 7

In re Application of
Michael John Taylor et al.
Application No. 09/633,107
Filed: August 4, 2000
Attorney Docket No. 01435.0076

: DECISION GRANTING PETITION
: TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on February 20, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on December 28, 2001 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on February 8, 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 28, 2001 is hereby reset to run FROM THE RECEIPT DATE OF THIS OFFICE COMMUNICATION.

David W. Wu
Supervisory Patent Examiner
Technology Center 1700
Chemical Materials & Engineering
703-308-2450

Arthur S. Garrett
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.,
Washington, DC 20005

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

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

In re Application of
Paul H. Hickman
Application No. 09/633,497
Filed: August 7, 2000
Attorney Docket No. NEO1P025B

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2002, to revive the above-identified application.

The petition is GRANTED.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 2001, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 29, 2001. A Notice of Abandonment was mailed on July 7, 2002.

Petitioner is advised that the address as cited on the instant petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the instant petition, all future correspondence will be mailed solely to the address of record until appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 2600 for review of the "Amendment and Response" filed October 8, 2002.

Telephone inquiries concerning this matter may be directed to Gregory J. Toatley, Jr., Primary Examiner, at (703) 305-4066 or the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Perkins Coie LLP
P.O. box 2168
Menlo Park, California 94026

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/633,535	08/07/2000	1761	2498	NVI 4711.1	6	70	9

321
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

FILING RECEIPT

"OC000000005400634"

Date Mailed: 09/14/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Charles S. Schasteen, St Louis, MD ;
Jennifer Wu, St Charles, MD ;

Continuing Data as Claimed by Applicant

THIS APPLN CLAIMS BENEFIT OF 60/147,571 08/06/1999

Foreign Applications

If Required, Foreign Filing License Granted 09/14/2000

Title

In vitro digestibility assay

Preliminary Class

426

Data entry by : KASSA, ASRAT **Team :** OIPE **Date:** 09/14/2000

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CRF 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 36 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15 (b).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "**a**," "**an**" and "**the**" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "**new**," "**improved**," "**improvements in**" or "**relating to**" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 600 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY NY 10952

COPY MAILED

JAN 1 1 2007

OFFICE OF PETITIONS

In re Application of :
Dykeman et al. :
Application No. 09/633,767 : DECISION ON PETITION
Filed: 08/07/2000 :
Attorney Docket No. CH919990018US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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)." No additional petition fee is necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2005, which set a three (3) month shortened statutory period for reply. In the absence of a timely reply, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on February 6, 2006.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the

issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

With the present petition, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY NY 10952

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JAN 1 1 2007

OFFICE OF PETITIONS

In re Application of
Dykeman et al.
Application No. 09/633,767
Filed: 08/07/2000
Attorney Docket No. CH919990018US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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)." No additional petition fee is necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2005, which set a three (3) month shortened statutory period for reply. In the absence of a timely reply, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on February 6, 2006.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the

issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

With the present petition, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/833,767	Applicant(s) DYKEMAN ET AL.	
	Examiner Duc C. Ho	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires ____months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on ____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) They raise the issue of new matter (see NOTE below);
   (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): ____.
6. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ____.
   Claim(s) objected to: ____.
   Claim(s) rejected: *1-8,10-12,14-21,23-25 and 27-31*.
   Claim(s) withdrawn from consideration: ____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: ____.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). ____
13. Other: ____.

Duc C Ho
Primary Examiner
Art Unit: 2618

Continuation of 3. NOTE: The amended independent claims 1, 14, 27-29 raised new issues that would require further consideration and search.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY NY 10952

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Dykeman et al. :
Application No. 09/633,767 : DECISION ON PETITION
Filed: 08/07/2000 :
Attorney Docket No. CH919990018US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 14, 2007, to revive the above-identified application.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2005, which set a three (3) month shortened statutory period for reply. In the absence of a timely reply, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on February 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has submitted (1) the reply in the form of a Request for Continued Examination (RCE) (and fee) and a previously filed submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2665 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 may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-01

Paper No. 7

DANN DORFMAN HERRELL & SKILLMAN
SUITE 720
1601 MARKET STREET
PHILADELPHIA, PA 19103-2307

COPY MAILED

JUN 13 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Halseth, Barker, Hall, and Botich	: DECISION REFUSING STATUS
Application No. 09/633,793	: UNDER 37 CFR 1.47(a)
Filed: 7 August, 2000	:
Attorney Docket No. 1032-P01510U	:

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 26 February, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 7 August, 2000, without an executed oath or declaration. Accordingly, on 29 September, 2000, Initial Patent Examination Division (IPED) sent a "Notice to File Missing Parts of Nonprovisional Application" requiring a signed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

---

[1] A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

In response, on 26 February, 2001, petitioners submitted the present petition, accompanied by (a) a declaration and power of attorney signed by joint inventors Halseth, Barker, and Botich on behalf of themselves and joint inventor Hall, (b) a request and payment for a three month extension of the time for reply to the "Notice" above, the petition fee and late filing surcharge, and (c) a declaration by joint inventor Thor R. Halseth.

Petitioners assert, in the declaration by Thor R. Halseth, that Halseth asked Hall to sign the declaration on several occasions but that Hall refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C.
§§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present renewed petition lacks item (1).

Petitioners have not shown that the application was sent or given to the non-signing inventor for review. A grantable 37 CFR 1.47(a) petition requires that a copy of the entire application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review.[2] Petitioners should provide a copy of the application as filed to the non-signing inventor and request that the inventor review the application and sign the declaration. Petitioners may provide proof of this by submitting, with a renewed petition, a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, if one or more of the inventors refuse to sign the declaration, petitioners must establish that the inventor(s) refused to sign the declaration after having been presented with the application papers. The showing of record does not establish that the non-signing joint inventor had an opportunity to review

[2] MPEP 409.03(d).

the application before being asked to sign the declaration. If a written refusal is provided, petitioners should provide the requisite proof of refusal by submitting a copy of that written refusal. If the refusal is made orally to a person, then that person must provide details in an affidavit or declaration of facts.

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 Petitions Attorney Douglas I. Wood at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

DANN DORFMAN HERRELL & SKILLMAN
SUITE 720
1601 MARKET STREET
PHILADELPHIA, PA 19103-2307

COPY MAILED

JAN 14 2002

OFFICE OF PETITIONS

In re Application of
Thor Halseth et al.
Application No. 09/633,793
Filed: August 7, 2000
For: FLUID SAMPLING DEVICE WITH RETRACTABLE NEEDLE

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on January 4, 2002 (certificate of mailing November 13, 2001) in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed June 13, 2001, included a Declaration signed by previously nonsigning inventor Robert Hall in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Initial Patent Examination Unit.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APR 29 2005

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:	
Halseth et al	:	DECISION PETITION
Serial No.: 09/633,793	:	
Filed: August 7, 2000	:	
For: Fluid Sampling Device with Retractable	:	
Needle	:	

This is in response to applicants' petition filed May 2, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS .

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard A. Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 26 2006
OFFICE OF PETITIONS

CENTRAL COAST PATENT AGENCY
P.O. BOX 187
AROMAS, CA 95004

In re Application of George Hsu Application No. 09/633,801 Filed: August 7, 2000 Attorney Docket No. P417CIP	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on April 4, 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 CFR § 1.136(a).

The request was signed by the sole attorney/agent of record, Donald R. Boys, on behalf of Customer No. 24739.

Donald R. Boys has been withdrawn as attorney/agent of record. Therefore, applicant is reminded that there is no attorney/agent 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 sole inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 27, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: George Hsu
1444 Los Alamos Road
Santa Rosa, CA 95409

Fernandez & Associates, LLP
1047 El Camino Real – Suite 201
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J C PATENTS INC
4 VENTURE
SUITE 250
IRVING CA 92618

COPY MAILED
JAN 0 4 2007
OFFICE OF PETITIONS

In re Application of	:	
Wu, et al.	:	
Application No. 09/633,828	:	DECISION ON PETITION
Filed: August 7, 2000	:	
Attorney Docket No. JCLA6306	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 13, 2004.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a proper response to the non-final Office action mailed December 30, 2003. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on September 4, 2004.

On petition, applicant asserts that he timely filed an Amendment, on March 16, 2004. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of an Auto Reply Facsimile Transmission Receipt. See MPEP 503.

In view thereof, **the holding of abandonment is withdrawn**.

The Notice of Abandonment is hereby **VACATED**.

The matter is being forwarded to Group Art Unit 2664 for consideration of the Amendment, filed on March 16, 2004 (copy re-supplied with the instant petition).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 11-01

Paper No. 5

JOSEPH P. ABATE
INTELLECTUAL PROPERTY LAW
IBM CORPORATION
DEPT.18G
BUILDING 300-482 2070 ROUTE 52
HOPEWELL JUNCTION NY 12533

COPY MAILED

NOV 3 0 2001

OFFICE OF PETITIONS

In re Application of	:	
Ahlgren et al.	:	LETTER AND
Application No. 09/633,857	:	NOTICE OF ABANDONMENT
Filed: 7 August, 2000	:	
Att'y Docket No. FIS9-2000-0149US1	:	

This is letter is in reference to the paper styled "Response to Notice of Incomplete Reply (Nonprovisional) and/or Petition Under 37 CFR 1.181 and/or 1.182" filed on 13 August, 2001.

The application is **abandoned**.

On 7 August, 2000, the present application was filed. On 17 October, 2000, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 7 August, 2000, and that a signed oath or declaration and a surcharge for its late filing were required. The Notice set a two (2) month period for reply.

In response, on 26 October, 2000, applicants submitted a signed declaration and authorization to charge counsel's deposit account, No. 09-0458, the surcharge of $130.00. On 18 June, 2001, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that the reply filed on 26 October, 2000, was incomplete in that the oath or declaration was unsigned and the filing fee had not been received. The Notice stated that the period of reply remained as set forth in the Notice to File Missing Parts mailed on 17 October, 2000.

Applicants state a proper reply to the Notice to File Missing Parts was submitted on 26 October, 2000. A review of the record reveals that although a signed declaration was submitted on 26 October, 2000, the Office of Initial Patent Examination (OIPE)

was unable, however, on 30 October, 2000, to charge the surcharge of $130.00 because counsel's deposit account contained insufficient funds. It is applicants' responsibility to maintain an amount sufficient to cover all fees, services, copies, etc. on deposit at all times.[1] As such, the reply was incomplete in that the surcharge was not timely paid.

As the surcharge was not timely paid, and no extensions of time in accordance with 37 CFR 1.136(a) were obtained, the application became **abandoned** on 18 December, 2000. A grantable petition under 37 CFR 1.137 must be filed to continue prosecution of this application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file will be retained in the Office of Petitions for TWO (2) months to await applicant's response to this letter. Thereafter, the application will be forwarded to the Office of Initial Patent Examination for processing as an abandoned application.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

for D Wood
Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] 37 CFR 1.25(a).

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

Joseph P. Abate
Intellectual Property Law
IBM Corporation
Dept. 18G Building 300-482 2070 Route 52
Hopewell Junction NY 12533

COPY MAILED

JAN 0 7 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of:
Ahlgren, *et al.*
Application No. 09/633,857
Filed: August 7, 2000
Attorney Docket No. FIS9-2000-0149US1

This is a decision on the December 18, 2001 petition under 37 C.F.R. §1.137(b) to revive the above-identified application.

This application was filed on August 7, 2000. On October 17, 2000, OIPE mailed a notice to file missing parts stating that the application had been accorded a filing date of August 7, 2000 and that a signed oath or declaration and a surcharge for its late filing were required. The notice set a two month deadline for replying.

Accordingly, on October 26, 2000, Applicants submitted a signed declaration and authorization to charge counsel's deposit account for the required $130.00 surcharge. However, on June 18, 2001, a notice of incomplete reply was mailed, stating that the reply filed on October 26, 2000 was incomplete in that the oath or declaration was unsigned and that the filing fee had not been received. The notice stated that the period for replying remained as set forth in the October 17, 2000 notice to file missing parts.

On August 13, 2001, Petitioner filed a paper asserting that a proper reply to the notice to file missing parts had been submitted on October 26, 2000. That assertion was only partially true. While a signed declaration had, in fact, been filed at that time, the authorization to charge Petitioner's deposit account did not satisfy the requirement for paying the required surcharge, as the deposit account did not contain sufficient funds for making that debit.

Accordingly, the office mailed a notice to that effect on November 30, 2001.

Petitioner responded with the December 18, 2001 filing of this petition.

All requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) to revive an unintentionally abandoned application have been met. Therefore, this petition is **GRANTED**.

This file is being forwarded to the Office of Initial Patent Examination.

As per Petitioner's request, all required fees will be charged to Petitioner's deposit account (da#09-0458)

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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S. H. DWORETSKY
AT & T CORP.
P.O. BOX 4110
MIDDLETON NJ 07748

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JAN 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Mikkel Thorup et al.
Application No. 09/633,882
Filed: August 7, 2000
Attorney Docket No. 106989

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed September 28, 2004. A response was filed December 29, 2004 with a one month extension of time request, but by Advisory Action of May 12, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on September 29, 2004. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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 2155 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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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Cucco et al. :
Application No. 09/633,898 :DECISION DISMISSING LETTER
Patent No; 6,938,657 B1 :
Filed: Aug. 7, 2000 :
Attorney Docket No. 0807040.0069

This decision is in response to Patentees' "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed on November 7, 2005 requesting that the Office reduce the PTA determination at the time of the issuance of the patent from a determination of 269 days to a determination of 204 days. The Office thanks patentees for their good faith and candor in bringing alleged discrepancies in the PTA determination to the attention of the USPTO.

Patentees' application is **DISMISSED.** The correct determination at the time of the issuance of the patent is 269 days as determined by the USPTO. If applicants still believe that they were entitled to only 204 days after the mailing of thise decision, the Office invites applicants to provide information as to where such error occurred.

Patentees assert that the Office erred in awarding 269 days of PTA at the time of the issuance of the patent. Patentees do not assert where such error occurred.

Patentees' assertion is in error. The Office failed to issue the application within 3 years of the filing of the application. The amount of time over 3 years to issue the application was four hundred and fifty-four (454) days. See 1.702(b) and 1.703(b).[1] Applicants delayed by a period

[1]Patentees are 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 (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

of one hundred and eighty-five days (32 +92+29+32=185) days. See 37 CFR 1.704(b). Accordingly, the overall determination is 204 (454-185=269) days.

After the mailing of this decision, the Office will returned to the file repository for storage of the patented file.

The Office notes that this letter was in good faith and candor in bring an alleged error of too much PTA to the attention of the USPTO. Accordingly, the USPTO does not assess any fee under 37 CFR 1.18(e) for the submission of such letter

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

---

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/633,915 Patent No.: 6537482 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Christina Johnson
SPE

1791
Art Unit

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:
Nag, et al.	: DECISION ON APPLICATION FOR
Application No. 09/634,035	: PATENT TERM ADJUSTMENT
Filed: August 8, 2000	:
Atty. Dkt. No.: 005092.P001	:

This is a decision on the "Application for Correction of Patent Term Adjustment Calculation Under 37 C.F.R. § 1.705(b)" filed August 12, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **GRANTED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from the 755 day determination indicated on the Determination of Patent Term Adjustment mailed July 22, 2005 to an adjustment of 832 days. Applicants argue that the reduction of 77 days for submission of an RCE is in error.

A review of the application history reveals that an adjustment of 900 days can be attributed to the Office in accordance with 37 C.F.R. § 1.702(a)(1). The adjustment of 900 days was properly reduced 30 days in accordance with 37 CFR 1.704(b) for applicants' failure to engage in reasonable efforts to conclude prosecution in connection with submission of an amendment on July 26, 2004. The adjustment of 900 days was further reduced 38 days in accordance with 37 CFR 1.704(c)(8) in connection with submission of an IDS on September 2, 2004.

A final Office action was mailed November 8, 2004. The final Office action was subsequently remailed and a new period of time for reply set on February 14, 2005. The Office errantly calculated a period of reduction based on the day after the date that is three months after the date that the initial final Office action was mailed. However, the final Office action was remailed February 14, 2005 and a response was timely submitted (RCE) on April 26, 2005. Accordingly there was no failure to

engage in reasonable efforts to conclude prosecution in connection with the response to the final Office action mailed February 14, 2005.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 832 days as argued by applicant.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pat. Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

MORRISON & FOERSTER
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

COPY MAILED

JAN 14 2003

OFFICE OF PETITIONS

In re Application of :
Gregory S. Keller :
Application No. 09/634,038 :
Filed: August 8, 2000 :
Attorney Docket No. 514072000210 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 29, 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 November 30, 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
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JJGJr: 06-03

Paper No: 21

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OFFICE OF PETITIONS

In re Application of:
Ryan, et al.
Filed: 8 August, 2000
Application No. 09/634,041
Docket No.: F-175

ON PETITION

This is a decision on the petition filed herein on 13 June, 2003, under 37 C.F.R. §1.137(a)[1] to revive the above-identified application as abandoned due to unavoidable delay, and in light of the allegations also considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.[2]

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[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] 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.

For the reasons set forth below, the petition:

- considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **DISMISSED**; and
- under 37 C.F.R. §1.137(a)[3] to revive the application alleging unavoidable delay is **DISMISSED**.

NOTES: (1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[4] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

(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.)

[3] 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).

[4] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

BACKGROUND

A review of the record reveals:

- in response to a final Office action, Petitioner timely filed a Notice of Appeal (with fee) and, subsequently, an Appeal Brief (with fee);

- however, Petitioner failed to respond timely and properly to the Notice of Non-Compliance With 37 C.F.R. §1.192[5] mailed on 11 July, 2002, with reply due (absent

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[5] The regulations at 37 C.F.R. §1.192 provide:

§1.192 Appellant 's brief.

(a) Appellant must,within two months from the date of the notice of appeal under §1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. The brief must be accompanied by the fee set forth in § 1.17((c)and must set forth the authorities and arguments on which appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.

(b) On failure to file the brief, accompanied by the requisite fee, within the time allowed, the appeal shall stand dismissed.

(c) The brief shall contain the following items under appropriate headings and in the order indicated below unless the brief is filed by an applicant who is not represented by a registered practitioner:

(1) *Real party in* interest. A statement identifying the real party in interest, if the party named in the caption of the brief is not the real party in interest.

(2) *Related appeals and* interferences. A statement identifying by number and filing date all other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) *Status of claims* .A statement of the status of all the claims, pending or canceled, and identifying the claims appealed.

(4) *Status of amendments* .A statement of the status of any amendment filed subsequent to final rejection.

(5) *Summary of* invention. A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

(6) Issues. A concise statement of the issues presented for review.

(7) *Grouping of* claims. For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8)of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.

(8) Argument. The contentions of appellant with respect to each of the issues presented for review in paragraph (c)(6)of this section, and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on. Each issue should be treated under a separate heading.

(I) For each rejection under 35 U.S.C. 112, first paragraph, the argument shall specify the errors in the rejection and how the first paragraph of 35 U.S.C. 112 is complied with, including, as appropriate, how the specification and drawings, if any,

(A) Describe the subject matter defined by each of the rejected claims,

(B) Enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and

(C) Set forth the best mode contemplated by the inventor of carrying out his or her invention.

(ii)For each rejection under 35 U.S.C. 112, second paragraph, the argument shall specify the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(iii) For each rejection under 35 U.S.C. 102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

(iv) For each rejection under 35 U.S.C. 103, the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art. If the rejection is based upon a combination of references, the argument shall explain why the references, taken as a whole, do not suggest the claimed subject matter, and shall include, as may be appropriate, an explanation of why features disclosed in one reference may not properly be combined with features disclosed in another reference. A general argument that all the limitations are not described in a single reference does not satisfy the requirements of this paragraph.

(v) For any rejection other than those referred to in paragraphs (c)(8)(I)to (iv)of this section, the argument shall specify the errors in the rejection and the specific limitations in the rejected claims, if appropriate, or other reasons, which cause the rejection to be in error.

(9) Appendix. An appendix containing a copy of the claims involved in the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c)of this section, appellant will be notified of the reasons for noncompliance and provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief

extension of time) on or before Monday, 12 August, 2002;

- the instant application went abandoned after midnight 12 August, 2002;
- Notice of Abandonment was mailed on 2 June, 2003;
- Petitioner alleges that, after receiving the Notice of Abandonment, his investigation of his file revealed:

* * *

> The serial number of [papers filed by Petitioner] was erroneously written as 09/299,199, when it should have been 09/634,041.
>
> * * *
>
> The delay was unavoidable because Applicants believed they had filed a timely and proper response to the July 11, 2002, Patent Office letter by filing an Appellants' Brief in triplicate and a letter of transmittal to the Appeal Brief on July 30, 2002. This belief was substantiated by the post card (Exhibit B) with the USPTO stamp affixed thereto indicating the Appellant's Brief was received on August 6, 2002. Until Applicants received notification that this application was abandoned, Applicants believed that a proper response to the July 11, 2002, patent office letter was filed on July 30, 2002.

* * *

- Petitioner's Exhibit B, the receipt card (see: MPEP §503[6]), states:

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during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.
[36 FR 5850,Mar.30,1971;para.(a),47 FR 41278, Sept.17,1982,effective Oct.1,1982;para.(a),49 FR 556, Jan.4; 1984, effective Apr.1,1984; 53 FR 23734, June 23, 1988,effective Sept.12, 1988; para. (a), (c), and (d) revised, 58 FR 54504,Oct.22,1993,effective Jan.3,1994; paras.(a)-(c)revised,60 FR 14488,Mar 17,1995,effective Apr.21,1995;para.(a)revised,62 FR 53131,Oct.10, 1997,effective Dec.1,1997]

[6] The commentary at MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt
37 C.F.R. §1.54. Parts of application to be filed together; filing receipt.
(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53(f) and (g) with regard to completion of an application.

* * *

If a self-addressed postcard is submitted with a patent application, that postcard will be provided with both the receipt date and application number prior to returning it to the addressee. The application number identified on such a postcard receipt is merely the preliminary assignment of an application number to the application, and should not be relied upon (e.g., with respect to foreign filings) as necessarily representing the application number assigned to such application. See 37 C.F.R. 1.53(b). The identifying data on the postcard should include:
(A) applicant's name(s);
(B) title of invention;
(C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing;
(D) whether oath or declaration is included;
(E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or

TRANSMITTAL OF APPEAL BRIEF (original +1) and APPELLANTS' BRIEF in triplicate in Patent Application Titled: METHOD FOR COLLECTING SALES AND/OR USE TAXES ON SALES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG, Inventor: Frederick W. Ryan, Jr., S/N.: 09/634,041, Filed: August 8, 2000 (Emphasis the original)

and is date stamped as received by the Office on 6 August, 2002;

- however, the document submitted by the Petitioner as the previously missing "reply" is entitled "Appellants' Corrected, Substituted Brief";
- Petitioner provided no other documentation or support for the allegation of unavoidable delay under 37 C.F.R. §1.137(a).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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provisional application cover sheet); and
(F) amount and manner of paying the fee.
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).

* * *

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.

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[7]

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.[8]

Delays in responding properly raise the question whether delays are unavoidable.[9] 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).[10]

And the Petitioner must be diligent in attending to the matter.[11] 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.[12]))

Allegations as to the Request to Withdraw
the Holding of Abandonment and
the Petition Alleging Unavoidable Delay

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[7] 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.

[8] 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.

[9] 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).

[10] 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.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[13]

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[14]

In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[15] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[16]

Petitioner acknowledges that:

- he has submitted items either in the wrong application and/or with the wrong application number, and
- clearly the reply document that he seeks to demonstrate he filed is not the document for which he has submitted a stamped receipt card.

Therefore, because Petitioner's own files are in conflict he has not clearly satisfied the showing as required under 37 C.F.R. §1.137(a). (Presuming for the purposes of discussion that it was an act/omission of Counsel that contributed to any of the delay herein, the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client[17] in the absence of evidence that the attorney/agent has acted to deceive the client.[18])

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[13] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[14] See MPEP 711.03(c)(III)(C)(2).

[15] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[16] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[17] The actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them. Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 82 S.Ct. 1386, 1390-91 (1962).

The failure of a party's attorney to take a required action or to notify the party of its rights does not create an extraordinary situation. Moreover, the neglect of a party's attorney is imputed to that party and the party is bound by the consequences. See Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992); Herman Rosenberg and Parker-Kalon Corp. v. Carr Fastener Co., 10 USPQ 106 (2d Cir. 1931).

[18] When an attorney intentionally conceals a mistake he has made, thus depriving the client of a viable opportunity to cure the consequences of the attorney's error, the situation is not governed by the stated rule in Link for charging the attorney's mistake to his client. In re Lonardo, 17 USPQ2d 1455 (Comm'r. Pat. 1990).

It long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[19] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[20]

Delays such as here are inconsistent with a showing of diligence in the prosecution of the instant application,[21] and this course of action precludes revival of the application under 37 C.F.R. §1.137.[22]

Accordingly, Petitioner has failed to establish to the satisfaction of the Commissioner that the delay was "unavoidable" within the meaning of 37 C.F.R. §1.137.[23]

Should the Petitioner wish to continue to seek revival, he must evidence that the delay--at the very least--was not intentional (and so plead the matter as required under 37 C.F.R. §1.137(b).[24] (See: "Alternative Venue," below.)

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

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[19] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[20] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[21] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[22] That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's "most important business." See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 C.F.R. §1.137 within two to three months of discovering its abandonment. See In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see also Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

[23] See Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

[24] Any renewed petition should include copies of any correspondence or communications between counsel and applicant, that would rebut any inference that the filing of the first petition to revive was intentionally delayed. This showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application. Petitioner must also supply declarations from himself and Counsel (and all staff of Counsel who may have contributed to the delays) in this regard.

Moreover, the circumstances of this application do not demonstrate as of this writing that the delay in filing the first petition was/is within the statutory and regulatory meaning of unavoidable delay--and the instant petition fails to satisfy the "showing" requirement as to relief sought.

Therefore, in the absence of those requirements, the petition herein 37 C.F.R. §1.137(a) must be **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore. As a result, Petitioner's only alternative to irretrievable abandonment is to file a petition and fee (as set forth at NOTE 1, above at page 2) under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional.".

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous. Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[25]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
ATTN.: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

[25] 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 (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of:	:	
Ryan, et al.	:	
Filed: 8 August, 2000	:	ON PETITION
Application No. 09/634,041	:	
Docket No.: F-175	:	

This is a decision on the petition filed herein on 29 July, 2003, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition is **GRANTED** and the petition fee ($1,300.00) is charged, as authorized, to Deposit Account 16-1885.

BACKGROUND

A review of the record reveals:

- in response to a final Office action, Petitioner timely filed a Notice of Appeal (with fee) and, subsequently, an Appeal Brief (with fee);

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

- however, Petitioner failed to respond timely and properly to the Notice of Non-Compliance With 37 C.F.R. §1.192[2] mailed on 11 July, 2002, with reply due (absent extension of time) on or before Monday, 12 August, 2002;

- the instant application went abandoned after midnight 12 August, 2002;

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[2] The regulations at 37 C.F.R. §1.192 provide:

§1.192 Appellant 's brief.

(a) Appellant must, within two months from the date of the notice of appeal under §1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. The brief must be accompanied by the fee set forth in § 1.17((c)and must set forth the authorities and arguments on which appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.

(b) On failure to file the brief, accompanied by the requisite fee, within the time allowed, the appeal shall stand dismissed.

(c) The brief shall contain the following items under appropriate headings and in the order indicated below unless the brief is filed by an applicant who is not represented by a registered practitioner:

(1) *Real party in* interest. A statement identifying the real party in interest, if the party named in the caption of the brief is not the real party in interest.

(2) *Related appeals and* interferences. A statement identifying by number and filing date all other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) *Status of claims* .A statement of the status of all the claims, pending or canceled, and identifying the claims appealed.

(4) *Status of amendments* .A statement of the status of any amendment filed subsequent to final rejection.

(5) *Summary of* invention. A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

(6) Issues. A concise statement of the issues presented for review.

(7) *Grouping of* claims. For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8)of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.

(8) Argument. The contentions of appellant with respect to each of the issues presented for review in paragraph (c)(6)of this section, and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on. Each issue should be treated under a separate heading.

(I) For each rejection under 35 U.S.C. 112, first paragraph, the argument shall specify the errors in the rejection and how the first paragraph of 35 U.S.C. 112 is complied with, including, as appropriate, how the specification and drawings, if any,

(A) Describe the subject matter defined by each of the rejected claims,

(B) Enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and

(C) Set forth the best mode contemplated by the inventor of carrying out his or her invention.

(ii)For each rejection under 35 U.S.C. 112, second paragraph, the argument shall specify the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(iii) For each rejection under 35 U.S.C. 102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

(iv) For each rejection under 35 U.S.C. 103, the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art. If the rejection is based upon a combination of references, the argument shall explain why the references, taken as a whole, do not suggest the claimed subject matter, and shall include, as may be appropriate, an explanation of why features disclosed in one reference may not properly be combined with features disclosed in another reference. A general argument that all the limitations are not described in a single reference does not satisfy the requirements of this paragraph.

(v) For any rejection other than those referred to in paragraphs (c)(8)(I)to (iv)of this section, the argument shall specify the errors in the rejection and the specific limitations in the rejected claims, if appropriate, or other reasons, which cause the rejection to be in error.

(9) Appendix. An appendix containing a copy of the claims involved in the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c)of this section, appellant will be notified of the reasons for noncompliance and provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

[36 FR 5850, Mar.30,1971; para. (a), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 556, Jan. 4, 1984, effective Apr. 1, 1984; 53 FR 23734, June 23, 1988, effective Sept. 12, 1988; para. (a), (c), and (d) revised, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; paras.(a)-(c) revised, 60 FR 14488, Mar 17,1995, effective Apr. 21, 1995; para. (a) revised,62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

- Notice of Abandonment was mailed on 2 June, 2003;
- the original petition--filed on 13 June, 2003, under 37 C.F.R. §1.137(a) to revive the application as abandoned due to unavoidable delay, and in light of the allegations also considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181--was dismissed on 30 June, 2003, for failure to satisfy the statutory and regulatory "showings";
- with the instant petition (and fee authorization) Petitioner also makes the statement of unintentional delay and provides the reply requirement--in the form of the Appeal Brief in triplicate (fee previously paid)--under the regulation.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

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[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7]

(Moreover, it long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[8] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[9] Such does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]

CONCLUSION

Accordingly, the petition to revive under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to Technology Center 3600 to await the Examiner's Answer.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[9] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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Commissioner for Patents
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Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles CA 90025

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OFFICE OF PETITIONS

In re Application of
Wingard et al.
Application No.09/634,045
Filed: August 8, 2000
Attorney Docket Number: 02998.P011

Title of Invention: LOGIC SYSTEM WITH CONFIGURABLE INTERFACE

ON PETITION

This is a decision on the petition filed December 29, 2004, under 37 CFR 1.137(a) and in the alternative under 37 CFR 1.137(b) to revive the above-identified application. In the alternative

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

The petition to revive under 37 CFR §1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on April 19, 2004 and set a three (3) month shortened statutory period for reply. An amendment with a request for a one month extension of time was submitted on August 20, 2004 (certificate of mailing August 17, 2004). In response to the amendment an Advisory Action was mailed on October 18, 2004 indicating the amendment submitted on August 20, 2004 (certificate of mailing August 17, 2004) did not place the application in condition for allowance. Accordingly, this application became abandoned on August 19, 2004. This decision precedes the mailing of a Notice of Abandonment.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] 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, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner asserts the application was unavoidably delayed because on or about October 29, 2004, Examiner Thompson told petitioner via a telephone conversation that she was going to send out a supplemental Advisory Action. Petitioner insist that he relied upon Examiner Thompson's statement and thus refrained from filing further response. On December 14, 2004, petitioner spoke to Examiner Thompson where she informed petitioner that she would not be sending out a supplemental Advisory Action. Petitioner argues that by the time the second conversation took place the application had passed into abandonment.

Petitioner's arguments have been considered but they are not persuasive. Petitioner's reliance upon a conversation with Examiner Thompson is not convincing because a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Further when the purported conversations took place on October 29, 2004 and December 14, 2004 the application was already in abandoned status.

Secondly, petitioner was informed in the Final Office Action and the Advisory Action that the statutory time period for reply could not be extended beyond the six months from the mailing of the Final Office Action. Pursuant to 37 CFR 1.116 (b), the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. Further MPEP 711.03(c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Accordingly, petitioner has failed to provide sufficient arguments that warrant the finding of unavoidable delay within the meaning of 37 CFR 1.137(a).

PETITION TO REVIVE UNDER 37 CFR 1.137(b)

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR

1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

Pursuant to petitioner's request deposit account 02-2666 will be charged the $1500 unintentional petition fee.

This application is being forwarded to Technology Center 2800 for further processing of the appeal brief submitted with the instant petition.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

Matthew E. Connors
Samuels Gauthier & Stevens LLP
Suite 3300
225 Franklin Street
Boston MA 02110

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DEC 1 1 2001

OFFICE OF PETITIONS

In re Application of	:	
Joannopolous, et al.	:	
Application No. 09/634,099	:	DECISION ON PETITION
Filed: August 8, 2000	:	
Attorney Docket No. MIT7953CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 25, 2000, which set a shortened statutory period for reply of three (3) months. On April 23, 2001, petitioner filed a Request for Continued Examination ("RCE") along with a request for an extension of time within the third month. On May 30, 2001, a notice was mailed to petitioner indicating that the RCE was improper and would not be entered. No further responses were received within the allowable period. Accordingly, the application became abandoned on April 24, 2001. A Notice of Abandonment was mailed on June 19, 2001.

The continuation application filed September 14, 2001, is accepted that the required reply under 37 CFR 1.137(b)

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

MAILED
APR 16 2004
Technology Center 2100

In re Application of:
Ifay F. CHANG
Application No. 09/634,139
Filed: August 8, 2000
For: METHOD FOR ENABLING E-COMMERCE VOICE COMMUNICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 4, 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: IPO2U.COM
ATTN: Dr. Ifay Chang
P.O. Box 944
Yorktown Heights, NY 10598

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P.O. BOX 944
YORKTOWN HEIGHTS NY 70598

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OFFICE OF PETITIONS

In re Application of
Ifay F. Chang
Application No. 09/634,139
Filed: August 8, 2000
Attorney Docket No. 20676-000100US

ON PETITION

This is a decision on the petition filed October 26, 2005, to withdraw the holding of abandonment of the above-identified application, which is treated under 37 CFR 1.181.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on August 12, 2004, for failure to file a timely response to the non-Final Office Action mailed May 11, 2004, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed March 29, 2005.

Petitioner contends that a response to the May 11, 2004 non-Final Office Action was timely filed on June 24, 2004. Copies of the purported response are of record with a receipt date of April 18, 2005 and a notation that petitioner has on numerous occasions tried to file the same response, beginning on June 24, 2004. Additionally, with the instant petition, petitioner has included copies of a certified mail receipt from the USPS dated June 24, 2004 and suggests that the receipt is proof that the response to the non-Final Office Action was mailed on June 24, 2004.

Unfortunately, neither a certificate of mail pursuant to 37 CFR 1.8[1], or a postcard

[1] 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. 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

receipt pursuant to MPEP 503[2] was used and either would have been accepted as proof of filing but not a certified mail receipt for which the contents of the package can't be determined.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the non-Final Office Action on June 24, 2004 and since the proof submitted does not substantiate a finding that the response was received and perhaps through error of the USPTO not now of record, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to filed 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) ($675.00);
>
> (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

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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.

[2]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
Ifay F. Chang : ON PETITION
Application No. 09/634,139 :
Filed: August 8, 2000 :
Attorney Docket No. 20676-000100US :

This is a decision on the renewed petition filed January 5, 2006 and supplemented January 23, 2006, to withdraw the holding of abandonment of the above-identified application, which is treated under 37 CFR 1.181.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on August 12, 2004, for failure to file a timely response to the non-Final Office Action mailed May 11, 2004, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed March 29, 2005. A petition to withdraw the holding of abandonment was filed October 26, 2005 and was dismissed in a decision mailed December 21, 2005 because while petitioner contends that a response to the May 11, 2004 non-Final Office Action was timely filed on June 24, 2004 and again on July 1, 2004, petitioner has not been able to provide proof of filing other than with a copy of the certified mail receipt used for mailing the package that petitioner claims included a response to the non-Final Office Action mailed May 11, 2004.

As was indicated in the decision mailed December 21, 2005, neither a certificate of mail pursuant to 37 CFR 1.8[1], or a postcard receipt pursuant to MPEP 503[2] was used and

[1] 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. 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

either would have been accepted as proof of filing but not a certified mail receipt for which the contents of the package can't be determined.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the non-Final Office Action on June 24, 2004 or July 1, 2004 and since the proof submitted does not substantiate a finding that the response was received and perhaps through error of the USPTO, not now of record, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

With the renewed petition, petitioner has not provided any additional proof to persuade the USPTO that in fact a timely response was filed on either June 24, 2004 or July 1, 2004. It is petitioner's burden to supply sufficient evidence to support the allegations made in the petition. In this case, petitioner has offered any new arguments and has not yet met the burden that a response was timely filed, or that the USPTO was in receipt of the response but subsequently lost it.

Unless petitioner is able to provide proof of the claim that the response was timely filed this application will remain in an abandoned status.

Petitioner may wish however, 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;

---

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.

[2]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

(2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);

(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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IFAY F. CHANG
3 LOUIS DRIVE
KATONAH NY 10536

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of Ifay F. Chang Application No. 09/634,139 Filed: August 8, 2000 Attorney Docket No. 20676-000100US	: : : : :	ON PETITION

This is a decision on the petition filed May 5, 2006 under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.
The above-referenced application was held abandoned on August 12, 2004, for failure to file a timely response to the non-Final Office Action mailed May 11, 2004, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed March 29, 2005.

This matter is being referred to Technology Center 2142 for appropriate action on response filed April 18, 2005.

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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[1]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) ($675.00);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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amb

Paper No. 10

Docketing Administrator
Avaya Inc.
Room IN-391
307 Middletown-Lincroft Road
Lincroft, NJ 07738-1526

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OFFICE OF PETITIONS

In re Application of
Cox, et al.
Application No. 09/634,158
Filed: August 9, 2000
Attorney Docket Number: Cox 44712

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 29, 2002 for failure to timely file a proper response to the non-final Office action mailed June 28, 2002. 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 obtained. Notice of Abandonment was mailed February 26, 2003.

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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

CC: DOUGLAS W. SWARTZ
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 23

Univation Technologies, LLC
5555 San Felipe, Suite 1950
Houston, TX 77056-2723

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NOV 20 2003

OFFICE OF PETITIONS

In re Application of
Donna Crowther
Application No. 09/634,195
Filed: August 9, 2000
Attorney Docket No. 2000US012.US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight May 26, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition an authorization to charge $1,330 for the petition to revive fee, an amendment, and an authorization to charge $950 for a three (3) months extension of time, to Deposit Account No. 50-0589.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on October 7, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file 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

#6

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

January 30, 2003

Randall C. Furlong
William, Morgan & Amerson
7676 Hillmont
Suite 250
Houston, TX 77040

In re application of:
Christian Zistl, et al DECISION ON PETITION
Serial No.: 09/634,209
Filed: August 9, 2000

For: IMPROVED DEPTH OF FOCUS (DOF)
FOR TRENCH-FIRST-VIA-LAST (TFVL) et al

This is a decision on the faxed petition received July 30, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed October 5, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 6, 2000. The notice was mailed on July 23, 2002.

On July 30, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the application was complete at the time of filing.

The evidence submitted is sufficient to establish that the petitioners gave authorization to charge the fees at the time of filing.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2811.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

ESCHWEILER & ASSOCIATES, LLC
NATIONAL CITY BANK BUILDING
629 EUCLID AVE., SUITE 1210
CLEVELAND, OH 44114

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Subramanian et al.	:	DECISION ON APPLICATION
Application No. 09/634,302	:	FOR
Filed: August 8, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No. E0796	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed October 20, 2005. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-one (191) days to one thousand eighty-nine (1089) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand eighty-four (1084)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 191 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term

[1] PALM Records indicate that the Issue Fee payment was received on November 14, 2005.

adjustment be corrected to 1089 days. Applicants assert that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 700 days, not 244 days. Further, applicants assert that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 191 days is incorrect. The Office mailed an Office action under section 132 on November 18, 2003, four months and 244 days after the date of filing of applicant's reply, November 19, 2002. However, the Notice was not mailed to the correspondence address of record (but to an attorney not of record). The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. Accordingly, a letter restarting the period for reply (and re-mailing the notice) was mailed on February 11, 2005.

Thus, the Office's delay should be calculating using the February 11, 2005. However, the period of delay is 695 days, not 700 days. In this regard, 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). Applicants' response was received on November 19, 2002. Thus, the period of adjustment is 695 days, the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, March 20, 2003, and ending on the date of mailing of an action under 35 U.S.C. 132, February 11, 2005.

Under the circumstances, applicants are correct that they did not fail to engage in reasonable efforts within the meaning of § 1.704(b). Their response filed May 5, 2005, was received within three months of the mailing of the Office action as re-mailed on February 11, 2005. Accordingly, a period of reduction of 442 days should not have been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 1084 days (389 + 695).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

UNITED STATES 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. 6380516
Issue Date: April 30,2002
Application No. 09634323
Filed: August 7,2000
Attorney Docket No. 195546US3

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6380516	2002-04-30	09634323	2000-08-07	ID 004407

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2007-02-06
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alexandria, VA 22313-1450
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DARDY & DARBY PC
805 THIRD AVENUE
NEW YORK, NY 10022

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Kaye, Evan John :
Application No. 09/634,339 : ON PETITION
Filed: August 8, 2000 :
Attorney Docket No. 03092/100G844-US1 :

This is a decision on the petition under 37 C.F.R. § 1.182, filed February 10, 2005, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from **Evan John Kaimowitz** to **Evan John Kaye**.

This matter is now being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,767,818	:	
Issue Date: July 27, 2004	:	
Application No. 09/634,556	:	ON PETITION
Filed: August 7, 2000	:	
Atty. Dkt. No. 681954-76US	:	

This is a decision on the petition under 37 CFR 1.182, filed December 15, 2005, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax - (571) 270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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666 THIRD AVENUE – 24TH FLOOR
NEW YORK, NY 10017

COPY MAILED

SEP 21 2007

OFFICE OF PETITIONS

Patent No. 6,492,144	:	
Application No. 09/634,732	:	
Filed: August 3, 2000	:	ON PETITION
Issued: December 10, 2002	:	
Attorney Docket No. 29480-501 REI	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 31, 2007, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued December 10, 2002. The last day of the grace period for paying the 3.5-year maintenance fee was December 10, 2006. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The $450.00 maintenance fee was submitted on Monday, June 12, 2006, as the due date for the maintenance fee fell on a Saturday. However, since the maintenance fee was submitted during the grace period, a late surcharge was required, but was not submitted. Since the late surcharge is no longer required once a patent expires, only the $1640.00 will be collected.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

DEC 2 7 2005

Technology Center 2100

Paper No. 14

Hitt Gaines, PC
Agere Systems Inc.
P.O. Box 832570
Richardson, TX 75083

In re Application of: Carlbom et al. Application No.: 09/634,764 Filed: August 7, 2000 Attorney Docket No.: Carlbom 5-4 For: ACOUSTIC MODELING APPARATUS AND METHOD USING ACCELERATED BEAM TRACING TECHNIQUES	**DECISION GRANTING PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8**

This decision is in response to the petition to withdraw abandonment filed April 26, 2005. The communication is being treated as a petition to withdraw the holding of abandonment and to accept papers as timely filed under 37 CFR §1.8. The Notice of Abandonment was mailed October 20, 2004.

In support of the petition, petitioners have provided a statement along with a copy of the request for reconsideration filed November 13, 2003 and a copy of the stamped return receipt post card.

A post card receipt serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on November 13, 2003. The Office failed to match the response to the application file.

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error.

The application will be forwarded to the Technical Support Staff for processing of petitioners' response to the Office action of November 13, 2003. Thereafter, the application will be forwarded to the examiner for consideration of applicants' request and originally filed IDS submitted on the same date and already of record.

Josie A. Ballato

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3567

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)
6596238	2003-07-22	09634770	2000-08-09	20070321-02

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	/Marc Bobys/	Date (YYYY-MM-DD)	2009-07-15
Name	Marc Bobys	Registration Number	45267

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. 6596238
Issue Date: July 22,2003
Application No. 09634770
Filed: August 9,2000
Attorney Docket No. STUDIEN 274-KGB

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

SEP 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

James R. Cypher
405 14th Street
Suite 1607
Oakland, CA 94612

In re Application of
Alex S. Toback
Application No. 09/634,908
Filed: August 9, 2000
For: SELF-DRILLING, SELF-ANCHORING FASTENER FOR CONCRETE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on September 8, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed March 11, 2002 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

KJD/vdb: 9/2/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

SECTOR $

PATENT

EXPRESS MAIL NO. EL701464344US
DATE DEPOSITED: November 28, 2000

OIPE JC17 NOV 29 2000 PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 5775.018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Frank Karlsen

Application No.: 09/634,960 Group No.: 1655

Filed: August 8, 2000 Examiner: Unknown

For: METHOD FOR IDENTIFICATION OF THE INDICATORS OF CONTAMINATION IN LIQUID SAMPLES

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

PTO

COMPLETION OF FILING REQUIREMENTS
- NONPROVISIONAL APPLICATION

(check and complete this item, if applicable)

I. X This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed September 28, 2000.

X A copy of the Notice to File Missing Parts of Application - Filing Date Granted (Form PTO-1533) is enclosed.

II. X (5 pages) No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

OR

___ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

(complete (c) or (d), if applicable)

Attached is a

(c) ___ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.

(d) ___ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

__X__ (2 pages) Verified Statement Claiming Small Entity Status - Small Business; and (2 pages)Verified Statement Claiming Small Entity Status - Independent Inventor are also enclosed.

AMENDMENT CANCELLING CLAIMS

III. ___ Cancel claims _____ inclusive.

TRANSMITTAL OF ENGLISH TRANSLATION OF NONENGLISH LANGUAGE PAPERS

IV. ___ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

SMALL ENTITY STATUS

V. __X__ Applicant qualifies for small entity status.

VI. __X__ Applicant's Assignee qualifies for small entity status.

COMPLETION FEES

VII. 1. Filing fee

___ original patent application $_____

___ design application $_____

2. Fees for claims

___ each independent claim in excess of 3 $_____

___ each claim in excess of 20 $_____

___ multiple dependent claim(s) $_____

3. Surcharge fees

_X_ late payment of filing fee and/or late filing of original oath $ 65.00

4. ___ Petition and fee for filing by other than all the inventors or person not the inventor $_____

5. ___ Fee for processing an application filed with a specification in a non-English language $_____

6. ___ Fee for processing and retention of application $_____

7. _X_ Assignment (see Assignment Cover Sheet) ($40.00 is due) $ 40.00

Total completion fees $ 105.00

EXTENSION OF TIME

VII. The proceedings herein are for a patent application, and the provisions of 37 CFR § 1.136(a) apply.

(a) ___ Applicant petitions for an extension of time, the fees for which are set in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
__ one month	$110.00	$ 55.00
__ two months	$380.00	$190.00
__ three months	$870.00	$435.00
__ four months	$1,360.00	$680.00

Fee: $_____

If an additional extension of time is required, please consider this a petition therefor.

___ An extension for ___ months has already been secured, and the fee paid therefor of $_____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request $_____

or

(b) _X_ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE

VIII. The total fee due is

Completion fee(s) $ 105.00

Extension fee (if any) $_____

Total Fee Due $ 105.00

PAYMENT OF FEES

IX. ___ Enclosed is a check in the amount of $_____

_X_ Charge Account No. 04-1700 in the amount of $ 105.00 for the completion fee ($65.00) (declaration and power of

attorney), and separately submitted Assignment ($40.00). A duplicate of this request is attached.

Please charge Account No. 04-1700 for any fees that may be due by this paper

AUTHORIZATION TO CHARGE ADDITIONAL FEES

X. X The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 04-1700.

___ 37 CFR § 1.16(a), (f) or (g) (filing fees)

___ 37 CFR § 1.16(b), (c) and (d) (presentation of extra claims)

X 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

___ 37 CFR § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))

___ 37 CFR § 1.17 (application processing fees)

Christopher W. Corbett, Reg. No. 36,109
DUNLAP, CODDING & ROGERS, P.C.
9400 North Broadway, Suite 420
Oklahoma City, Oklahoma 73114
Telephone: 405/478-5344
Facsimile: 405/478-5349

Agent for Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/634,960	08/08/2000	Frank Karlsen	5775.018

Christopher W Corbett Ph D
Dunlap Codding & Rogers P C
9400 North Broadway Suite 420
Oklahoma City, OK 73114

OIPE JC17
NOV 29 2000
PATENT & TRADEMARK OFFICE

FORMALITIES LETTER

OC000000005435816

Date Mailed: 09/28/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- Small Entity Statement is missing.

- **The balance due by applicant is $ 65.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

11/30/2000 JADDO1 00000074 041700 09634960
01 FC:205 65.00 CH

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/26/06

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 6723505

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

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Approved content, but changed line number designations to correspond to line numbers on patent (due to formatting, some line numbers were off). See attached for proper line numbers.

SPE 1634 **Art Unit**

Column 25, Line ~~10~~ 11: After the word "of" and before the word "amplified" insert the word --said--. (See Amendment filed 01/14/03, pg. 15, Claim 6)

Column 25, Line ~~14~~ 15: After the word "of" and before the word "amplified" insert the word --said--. (See Amendment filed 01/14/03, pg. 15, Claim 8)

Column 25, Line ~~17~~ 18: After the word "E. Coli" insert the words --but not *Shigella boydii, Shigella flexneri, Salmonella typhi, Salmonella enterica, Salmonella arizonae, Enterobacter cloacae, Enterobacter aeromonas, Enterococcus faecalis, Enterococcus faecium, Streptococcus pyogenes, Pseudomonas species, Aeromonas hydrophila, Acinetobacter species, Klebsiella pneumoniae, Listeria monocytogenes, Neisseria meningitidis, Campylobacter jejuni, Campylobacter coli, Erwinia species*, and *Citrobacter freundii*--. (See Amendment filed 01/14/03, pg. 15-16, Claim 13)

Column 25, Line ~~26~~ 28: After the word "E. Coli" insert the words --but not *Shigella boydii, Shigella flexneri, Salmonella typhi, Salmonella enterica, Salmonella arizonae, Enterobacter cloacae, Enterobacter aeromonas, Enterococcus faecalis, Enterococcus faecium, Streptococcus pyogenes, Pseudomonas species, Aeromonas hydrophila, Acinetobacter species, Klebsiella pneumoniae, Listeria monocytogenes, Neisseria meningitidis, Campylobacter jejuni, Campylobacter coli, Erwinia species*, and *Citrobacter freundii*--. (See Amendment filed 01/14/03, pg. 16-17, Claim 13)

Column 25, Line ~~38~~ 40: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 17, Claim 17)

Column 25, Line ~~42~~ 44: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 17, Claim 18)

Column 26, Line 1: After the word "of" and before the word "amplified" insert the word --said--.(See Amendment filed 01/14/03, pg. 18, Claim 26)

Column 26, Line 5: After the word "of" and before the word "amplified" insert the word --said--. (See Amendment filed 01/14/03, pg. 18, Claim 27)

Column 26, Line ~~18~~ 20: After the word "of" and before the word "amplified" insert the word --said--. (See Amendment filed 01/14/03, pg. 18, Claim 28)

Column 26, Line ~~22~~ 24: After the word "of" and before the word "amplified" insert the word --said--. (See Amendment filed 01/14/03, pg. 19, Claim 29)

AUG 2 2006

Column 26, Line ~~32~~ 34: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 19, Claim 32)

Column 26, Line ~~36~~ 38: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 19, Claim 33)

Column 26, Line ~~46~~ 49: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 19, Claim 37)

Column 26, Line ~~50~~ 53: After the word "detection" delete the word "reagent" and insert the word --agent--. (See Amendment filed 01/14/03, pg. 19, Claim 38)

[X] No fee is submitted herewith.

AUG 2 2006

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,723,505 B1

DATED : 04/20/2004

INVENTOR(S) : Frank Karlsen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 25, Line ~~10~~ 11: After the word "of" and before the word "amplified" insert the word –said–.

Column 25, Line ~~14~~ 15: After the word "of" and before the word "amplified" insert the word –said–.

Column 25, Line ~~17~~ 18: After the word "E. Coli" insert the words –but not Shigella boydii, Shigella flexneri, Salmonella typhi, Salmonella enterica, Salmonella arizonae, Enterobacter cloacae, Enterobacter aeromonas, Enterococcus faecalis, Enterococcus faecium, Streptococcus pyogenes, Pseudomonas species, Aeromonas hydrophila, Acinetobacter species, Klebsiella pneumoniae, Listeria monocytogenes, Neisseria meningitidis, Campylobacter jejuni, Campylobacter coli, Erwinia species, and Citrobacter freundii–.

Column 25, Line ~~26~~ 28: After the word "E. Coli" insert the words –but not Shigella boydii, Shigella flexneri, Salmonella typhi, Salmonella enterica, Salmonella arizonae, Enterobacter cloacae, Enterobacter aeromonas, Enterococcus faecalis, Enterococcus faecium, Streptococcus pyogenes, Pseudomonas species, Aeromonas hydrophila, Acinetobacter species, Klebsiella pneumoniae, Listeria monocytogenes, Neisseria meningitidis, Campylobacter jejuni, Campylobacter coli, Erwinia species, and Citrobacter freundii–.

MAILING ADDRESS OF SENDER: Dunlap, Codding & Rogers, P.C.
P. O. Box 16370
Oklahoma City, Oklahoma 73113

PATENT NO. 6,723,505 B1

No. of additional copies

SEND TO: Mail Stop Patent Application, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

TAUG

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,723,505 B1

DATED : 04/20/2004

INVENTOR(S) : Frank Karlsen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 25, Line ~~38~~ 40: After the word "detection" delete the word "reagent" and insert the word –agent–.

Column 25, Line ~~42~~ 44: After the word "detection" delete the word "reagent" and insert the word –agent–.

Column 26, Line 1: After the word "of" and before the word "amplified" insert the word –said–.

Column 26, Line 5: After the word "of" and before the word "amplified" insert the word –said–.

Column 26, Line ~~18~~ 20: After the word "of" and before the word "amplified" insert the word –said–.

Column 26, Line ~~22~~ 24: After the word "of" and before the word "amplified" insert the word –said–.

Column 26, Line ~~32~~ 34: After the word "detection" delete the word "reagent" and insert the word –agent–.

Column 26, Line ~~36~~ 38: After the word "detection" delete the word "reagent" and insert the word –agent–.

MAILING ADDRESS OF SENDER: Dunlap, Codding & Rogers, P.C.
P. O. Box 16370
Oklahoma City, Oklahoma 73113

PATENT NO. 6,723,505 B1

No. of additional copies

AUG 2 2006

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,723,505 B1

DATED : 04/20/2004

INVENTOR(S) : Frank Karlsen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 26, Line ~~46~~ 49: After the word "detection" delete the word "reagent" and insert the word –agent–.

Column 26, Line ~~50~~ 53: After the word "detection" delete the word "reagent" and insert the word –agent–.

MAILING ADDRESS OF SENDER: Dunlap, Codding & Rogers, P.C.
P. O. Box 16370
Oklahoma City, Oklahoma 73113

PATENT NO. 6,723,505 B1

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Arthur I Degenholtz
32 Vandelinda Ave
Teaneck NJ 07666

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Banerjee :
Application No. 09/635,027 : ON PETITION
Filed: August 4, 2000 :
Attorney Docket No. N/A :
For: METHODS FOR SIMULTANEOUS :
ISOLATION OF BIOLOGICALLY ACTIVE
TRANSCRIPTION FACTORS AND DNA

This is a decision on the petition under 37 CFR 1.137(a), filed April 13, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to properly reply to the final Office action of June 3, 2002, which set a shortened statutory period for reply of three (3) months to submit, *inter alia*, sequence rules and a CRF in compliance with 37 CFR 1.821 - 1.825. Extensions of time were available under 37 CFR 1.136(a). A timely reply was received on December 2, 2002. However, this reply failed to comply with the requirements of 37 CFR 1.821 - 1.825. This application became abandoned on December 4, 2002. A Notice of Abandonment was mailed on July 11, 2003.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the

entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications 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.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). 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 utilized NIH Genebank software and not USPTO recognized software. As a result, applicant's submission was not formatted properly. Petitioner did not understand Office rules regarding sequence listing format.

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. 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).

Furthermore, it is noted that a Notice of Abandonment was mailed on July 11, 2003. Petitioner did not file the instant petition until April 13, 2004. Professional commitments, business travel, and personal illness on the part of the applicant are articulated reasons for the delay in filing the petition once notice of abandonment was received. Petitioner was aware that the application was abandoned, but focused his attention on other matters. Petitioners' preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). The delay in filing an initial petition was not unavoidable.

ALTERNATE VENUE

Petitioner is encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required $665.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioner's convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally 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
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/64 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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Arthur I Degenholtz
32 Vandelinda Ave
Teaneck NJ 07666

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
Banerjee
Application No. 09/635,027
Filed: August 4, 2000
Attorney Docket No. N/A
For: METHODS FOR SIMULTANEOUS ISOLATION OF BIOLOGICALLY ACTIVE TRANSCRIPTION FACTORS AND DNA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2004 (Express Mail date August 9, 2004), to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply to the final Office action of June 3, 2002, which set a shortened statutory period for reply of three (3) months to submit, *inter alia*, sequence rules and a CRF in compliance with 37 CFR 1.821 - 1.825. Extensions of time were available under 37 CFR 1.136(a). A timely reply was received on December 2, 2002. However, this reply failed to comply with the requirements of 37 CFR 1.821 - 1.825. This application became abandoned on December 4, 2002. A Notice of Abandonment was mailed on July 11, 2003. A petition under 37 CFR 1.137(a), filed April 13, 2004, to revive the above-identified application was dismissed on July 14, 2004 for failure to show 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.

Applicant has submitted a reply in the form of a RCE and compliant sequence listing, an acceptable statement of the unintentional nature of the delay in responding to the September 4, 2002 non-final Office action, and the petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 1600 for further examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, NY 10112

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Aikawa
Application No. 09/635,109
Filed: August 9, 2000
Attorney Docket No. 14998-230

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed November 26, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(a) is **dismissed as moot.**

The above-identified application became abandoned for failure to submit formal drawings and the issue fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed January 29, 2002. Accordingly, the above-identified application became abandoned on April 30, 2002. A Notice of Abandonment was mailed on May 31, 2002.

Petitioner has established to the satisfaction of the Office that the Notice of Allowance, Notice of Allowability, and Notice of Abandonment were not received by petitioner.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. The petition fee of $130 charged to petitioner's deposit account will be credited back to the deposit account.

A terminal disclaimer has been filed which effectively disclaims none of the term since the period of abandonment is 0 days. A fee of $110 was charged for the terminal disclaimer. The $110 fee will be credited to petitioner's deposit account.

The Office of Publications will be informed of the instant decision so that it may begin to take steps to process the application into a patent.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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MAIL

Paper No. 14

Rosenthal & Osha L.L.P.
1221 McKinney Avenue
Suite 2800
Houston, TX 77010

OCT - 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Huang et al.	)	
Application No. 09/635,116	)	
Attorney Docket No. 05516/056002	)	DECISION ON THIRD-PARTY
Filed: August 9, 2000	)	PETITION TO WITHDRAW
For: METHOD FOR SIMULATING	)	APPLICATION FROM ISSUE UNDER
DRILLING OF ROLLER CONE BITS AND	)	37 CFR § 1.313
ITS APPLICATION TO ROLLER CONE	)	
BIT DESIGN AND PERFORMANCE	)	

This is a decision on the third-party petition filed April 15, 2003 to withdraw the application from issue under 37 CFR § 1.313. The petition was accompanied by a protest under 37 CFR § 1.291 and authorization to charge petitioner's deposit account.

The petition is **DENIED**.

The third-party protest under 37 CFR § 1.291 has **NOT** been placed in the above identified application because it was submitted after the mailing of the notice of allowance. Because the protester indicated the applicants have been served with a copy, the original protest has been discarded. See MPEP 1901.06. However, the protest under 37 CFR § 1.291 is directed to "any application claiming the benefit of the filing date of application serial No. 09/635,116." This citation is considered a sufficient identification of the pending application(s) to which the protest is directed under the guidelines set forth in 37 CFR § 1.291(a) and a copy of this protest is therefore being forwarded to the appropriate application(s).

BACKGROUND

On April 15, 2003, petitioner, acting on behalf of a third party, filed a petition requesting, *inter alia*, withdrawal of the above-noted application ('116) from issue and that the application be returned to the examiner for the purpose of considering a request for an interference by petitioner. The petitioner has copied claims of 09/635,116 into pending application 09/833,016 for the purpose of requesting an interference with application '116.

ISSUES

The petitioner requests extraordinary relief because the above noted application issuing before an interference is declared will permit the assignee of application '116 to assert that patent against the petitioner's assignee. Petitioner requests the Office take action *sua sponte* should the petition fail due to a lack of standing.

DECISION

The petitioner lacks standing to request the relief specified in the petition.

37 CFR § 1.313 states:

> (a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary. A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.
>
> (b) Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:
>
> (1) A mistake on the part of the Office;
>
> (2) A violation of § 1.56 or illegality in the application;
>
> (3) Unpatentability of one or more claims; or
>
> (4) For interference.
>
> (c) Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
>
> (2) Consideration of a request for continued examination in compliance with § 1.114; or
>
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.
>
> (d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The express language of the rule is directed only to the Office and to the applicant. No provision is made in either the rules or the Manual for Patent Examining Procedure for such a request by a third party. Therefore, petitioner has not shown, nor is it apparent, that petitioner may invoke, or request to invoke, this regulation.

In regards to the petitioner's request that the Office take such action *sua sponte*, the Director may withdraw an application from issue. See Harley v. Lehman, 981 F. Supp. 9, 12, 44 USPQ2d 1699, 1702 (D.D.C. 1997). However, 35 USC § 151 provides that upon payment of the issue fee, "the patent shall issue." If a determination were made that at least one of the conditions specified at 37 CFR § 1.3131(b)(1) through (4) existed such that an applicant was no longer "entitled to a patent under the law" then the Director would be authorized to withdraw the application from issue after payment of the issue fee. See MPEP 1308. The USPTO is authorized to withdraw an application from issue after the payment of the issue fee for

interference. See 37 CFR § 1.313(b)(4). Interference is defined as "a proceeding instituted in the Patent and Trademark Office before the Board to determine any question of patentability and priority of invention between two or more parties claiming the same patentable invention." See 37 CFR § 1.601(i). As no interference has been declared to date, the conditions of 37 CFR § 1.313(b) have not been met and the patent shall issue.

Accordingly, the petition is **DENIED**.

Telephone inquiries should be directed to Josie A. Ballato, Special Programs Examiner, at (703) 308-0269.

Peter Wong
Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

Cc: Charles L. Gholz
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
Fourth Floor
1940 Duke Street
Alexandria, VA 22314

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Paper No. 17

ROSENTHAL & OSHA L.L.P.
1221 MCKINNEY AVENUE
SUITE 2800
HOUSTON TX 77010

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DEC 1 6 2003
OFFICE OF PETITIONS

In re Application of :
Sujian Huang et al. :
Application No. 09/635,116 : DECISION ON PETITION
Filed: August 9, 2000 :
For: METHOD FOR SIMULATING DRILLING OF ROLLER CONE BITS AND ITS APPLICATION TO ROLLER CONE BIT DESIGN AND PERFORMANCE :

The above-identified application is before the Deputy Commissioner for Patent Examination Policy for review. As a result of that review --

(1) the third-party petition to withdraw the above-identified application from issue filed on April 15, 2003 is **dismissed**;

(2) the decision of October 9, 2003 by the Director of Technology Center 2100 (Technology Center Director) is **vacated**;

(3) the request for reconsideration of the decision of October 9, 2003 by the Technology Center Director filed on October 16, 2003 is **dismissed**; and

(4) the above-identified application is returned to the Office of Patent Publication for further processing.

BACKGROUND

A paper on behalf of a third party to the above-identified application was filed on April 15, 2003. The paper filed on April 15, 2003 contained a protest under 37 CFR 1.291, and a petition under 37 CFR 1.313 to withdraw the above-identified application from issue.

The petition under 37 CFR 1.313 to withdraw the above-identified application from issue was denied by the Technology Center Director in a decision mailed on October 9, 2003.

A third-party paper requesting reconsideration of the Technology Center Director's decision of October 9, 2003 was filed on October 16, 2003.

STATUTE AND REGULATION

35 U.S.C. § 2(b)(2)(A) provides that the Office may establish regulations, not inconsistent with law, which shall govern the conduct of proceedings in the Office.

35 U.S.C. § 151 provides that:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.
>
> Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
>
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

37 CFR 1.313 provides that:

> (a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this

section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary. A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

(b) Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:

(1) A mistake on the part of the Office;

(2) A violation of § 1.56 or illegality in the application;

(3) Unpatentability of one or more claims; or

(4) For interference.

(c) Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with § 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

DECISION

The Technology Center Group Director's decision of October 9, 2003

The Manual of Patent Examining Procedure (MPEP) provides that petitions, or requests at the initiative of the USPTO by someone other than a Technology Center Director, to withdraw patent applications from issue after payment of the issue fee under 37 CFR 1.313(b) and (c) are decided by the Office of the Deputy Commissioner for Patent Examination Policy. See MPEP 1002.02(b) (8th. ed. 2001) (Rev. 1, Feb. 2003). The decision of October 9, 2003 denying the third-party petition filed April 15, 2003 to withdraw the above-identified application from issue, however, was rendered by the Technology Center Director, rather than Office of the Deputy

Commissioner for Patent Examination Policy.[1] Therefore, the decision of October 9 2003 is hereby **vacated**.

The third-party request for reconsideration submitted on October 16, 2003

37 CFR 1.313 provides for the withdrawal of an application from issue for further action either: (1) at the initiative of the Office; or (2) upon petition by the applicant. See 37 CFR 1.313(a). 37 CFR 1.313 provides that after payment of the issue fee, the Office may withdraw the application from issue after payment of the issue fee at its own initiative: (1) due to a mistake on the part of the Office; (2) due to a violation of 37 CFR 1.56 or illegality in the application; (3) due to unpatentability of one or more claims; or (4) for interference. See 37 CFR 1.313(b). 37 CFR 1.313 provides that after payment of the issue fee, the Office may withdraw the application from issue after payment of the issue fee upon petition by the applicant for: (1) unpatentability of one of more claims; (2) consideration of a request for continued examination in compliance with 37 CFR 1.114; or (3) express abandonment of the application. 37 CFR 1.313 does not permit a third party to petition the Office to withdraw an application from issue for any reason.[2]

The Court of Appeals for the Federal Circuit (Federal Circuit) has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991) ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent"). The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). The rules of practice, however, do not permit a third party to petition the Office to withdraw an application from issue. The fact that the Office

---

[1] It appears that the third-party petition filed April 15, 2003 to withdraw the above-identified application from issue was forwarded by the Office of Petitions to Technology Center Director for decision.

[2] The petition of April 15, 2003 also request that the Office withdraw the application from issue *sua sponte* (or on its own initiative) if petitioner is deemed to lack standing in the above-identified application. *Sua sponte* means: Of his or its own will or motion; voluntarily; without prompting or suggestion. See Black's Law Dictionary at 1424 (6th ed. 1990). Thus, the filing of a paper prompting or suggesting that the Office take action *sua sponte*, much less the filing of a paper requesting reconsideration of a decision not to take action in an application *sua sponte*, is a *non sequitur*.

does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).

Petitioner lacks standing to request that the Office withdraw the above-identified application from issue. Accordingly, the third-party petition under 37 CFR 1.313 filed on April 15, 2003, and the third-party request for reconsideration of the Technology Center Director's decision of October 9, 2003 filed on October 16, 2003, are **dismissed**.

This decision is being copied to Charles L. Gholz of Oblon, Spivak, McClelland, Maier & Neustandt, P.C., 1940 Duke Street, Alexandria, VA 22314. However, no further correspondence concerning the above-identified application will be undertaken with Oblon, Spivak, McClelland, Maier & Neustandt, P.C. See 37 CFR 1.291(c).

Petitioner's representative is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third-party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action.

CONCLUSION

For the above-stated reasons:

(1) the third-party petition to withdraw the above-identified application from issue filed April 15, 2003 is **dismissed**;

(2) the decision of October 9, 2003 by the Technology Center Director is **vacated**; and

(3) the third-party request for reconsideration of the decision of the request for reconsideration of the decision of October 9, 2003 by the Technology Center Director filed on October 16, 2003 is **dismissed**.

This decision may be viewed as final agency action. See MPEP 1002.02(b).

Telephone inquiries related to this decision should be addressed to Petitions Examiner Brian Hearn at (703) 305-1820.

The above-identified application is returned to the Office of Patent Publication for further processing.

Stephen G. Kunin
Deputy Commissioner for
Patent Examination Policy

cc:

Charles L. Gholz
Oblon, Spivak, McClelland,
Maier & Neustandt, P.C.
1940 Duke Street
Alexandria, VA

2018-326
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OFFICE OF PETITIONS

NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

In re Application of
Akimitsu Sugiura et al
Application No. 09/635,138
Filed: August 9, 2000
Attorney Docket No. 2018-326

ON PETITION

This is a decision on the petition, filed January 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 August 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 should be directed to Irvin Dingle at (703) 306-5684.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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In re Application of :
Akimitsu Sugiura et al :
Application No. 09/635,138 :
Filed: August 9, 2000 :
Attorney Docket No. 2018-326

ON PETITION

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

In re Application of
Akimitsu Sugiura et al
Application No. 09/635,138
Filed: August 9, 2000
Attorney Docket No. 2018-326

ON PETITION

This is a decision on the petition, filed January 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 August 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 should be directed to Irvin Dingle at (703) 306-5684.

Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is **(703) 872-9306.**

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Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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In re Application of
Lawrence A. Lynn
Application No. 09/635,153
Filed: August 8, 2000
Attorney Docket No. LYN1965-002

: LETTER VACATING
: HOLDING OF ABANDONMENT

On March 10, 2004, a non-final Office action setting a three month shortened statutory period for reply thereto was mailed to applicant. Thereafter, on September 14, 2004, a reply was filed together with a petition for a three month extension of time and the fee therefor, together with a new power of attorney. These papers filed with a 37 CFR 1.8(a) certificate of mailing dated September 10, 2004, and therefore constitute a timely reply to the outstanding Office action in accordance with 37 CFR 1.8(b).

Notwithstanding the above, a Notice of Abandonment was mailed on September 17, 2004 in which the application was held to have become abandoned for failure to file a reply to the Office letter dated March 10, 2004. It being clear that a timely reply was in fact filed, the holding of abandonment is clearly erroneous and is vacated.

The application will be placed in a pending status, and the reply together with the new power of attorney will be entered. In addition, the supplemental reply filed on September 15, 2004 will be entered because the amended provisions of 37 CFR 1.111 with respect to supplemental amendments did not become effective until October 21, 2004.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Stanley Law Group LLP
495 Metro Place South
Suite 210
Dublin, OH 43017

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ALBERT C. SMITH
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of :
Albert K. Chin :
Application No. 09/635,345 :
Filed: August 9, 2000 :
Atty Dcet No.: AKC-22900 [R0171] :

This is a decision in response to the petition under 37 CFR 1.137(b), filed August 17, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 16, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 17, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the December 16, 2004 Office action has been filed with the instant petition.

This application is being forwarded to Technology Center Art Unit 3738 for processing of the Amendment, filed August 17, 2005, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

ALBERT C. SMITH
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of	:	
CHIN, Albert K.	:	
Application No. 09/635,345	:	DECISION ON REQUEST FOR
Filed: August 9, 2000	:	REVOCATION OF POWER
Attorney Docket No. **AKC-22900(R0171)**	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed February 20, 2007.

The request is **APPROVED.**

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

In view of the present decision, FENWICK & WEST LLP has been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b). All future communications from the Office will be directed to the assignee of the entire interest under 37 CFR § 3.71 at the first copied address below until otherwise properly notified by the applicant.

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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ORIGIN MEDSYSTEMS, INC.**
A CORPORATION OF THE STATE OF DELAWARE
1525 O/BRIEN DRIVE
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

ALBERT C. SMITH
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of	:	
CHIN, Albert K.	:	
Application No. 09/635,345	:	DECISION ON PETITION
Filed: August 9, 2000	:	TO WITHDRAW
Attorney Docket No. AKC-22900(R0171)	:	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 18, 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 Albert C. Smith on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn.

In view of the present decision, FENWICK & WEST LLP has been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b). All future communications from the Office will be directed to the first assignee of the entire interest under 37 CFR § 3.71 at the first copied address below until otherwise properly notified by the applicant.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ORIGIN MEDSYSTEMS INC.
A CORPORATION OF THE STATE OF DELAWARE
1525 O'BRIEN DRIVE
MENLO PARK, CA 94025

cc: JASON R. KRAUS
FAEGRE & BENSON
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901