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Technology Center 2100

May 10, 2007

FAY SHARPE/LUCENT
1100 SUPERIOR AVE
SEVENTH FLOOR
CLEVELAND OH 44114

In re Application of: August et al. Application No. 09/653,810 Attorney Docket No. LUT 2 0034 Filed: September 01, 2000 For: **INFORMATION AND COMMUNICATION SYSTEM**	)))))	**DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144**

This is a decision on the petition filed July 27, 2006 under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

The petitioner's traversal of the restriction requirement with respect to claim 18 is persuasive.

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

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claim 18.

John Follansbee
WQAS
Technology Center 2100
571-272-3964

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ROBIN M. SILVA
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FOUR EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111-4187

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OFFICE OF PETITIONS

In re Application of
Horwitz, David A.
Application No. 09/653,924
Filed: September 1, 2000
Attorney Docket No. A-67689-3/RFT/RMS/RMK

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 5, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 21, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 22, 2004.

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

This matter is now being forwarded to the Publishing Division for processing into a patent.

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

#11
DC

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TC 3600

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of
Takashi Matsumoto et al.
Application No. 09/653,988
Filed: September 1, 2000
For: COIN DISPENSING APPARATUS

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 on December 11, 2002 and supplemented on December 13, 2002.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to file a timely response to an Office communication dated June 3, 2002.

Applicant's petition includes a copy of a response bearing a Certificate of Facsimile Transmittal date of September 3, 2002. A statement by Scott D. Paul was received on December 13, 2002, which attests to the personal knowledge of transmitting 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 Program Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-3868
Facsimile No.: (703) 605-0586

SNM/tpl: 5/13/03

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March 2005

Charles B. Brantley, II
Micron Technology, Inc.
Mail Stop 525
8000 S. Federal Way
Boise, ID 83716-9632

MAR 2 2 2005

In re Application of:
Randhir P.S. Thakur et al.
Serial No.: 09/654,093
Filed: August 31, 2000
Attorney Docket No.: 94-0302.02

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. § 1.181 filed on March 1, 2004 requesting the withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on March 2, 2004. The Notice of Abandonment states the application is abandoned in view of the decision by the Board of Patent Appeals and Interferences rendered on November 18, 2003 and because the period for seeking court review of the decision has expired and there are no allowed claims.

A review of the Board decision indicates that the appeal was from the final rejection of claims 52-64 which were all of the claims pending in the application. On appeal, claim 60 stood rejected under 35 U.S.C. § 112 and claims 52-64 stood rejected under 35 U.S.C. § 103. The Board affirmed the rejection of claim 60 under 35 U.S.C. § 112 and the rejection of claims 52-59 under 35 U.S.C. § 103 but reversed the rejection of claims 60-64 under 35 U.S.C. § 103. Thus, there was no rejection of claims 61-64 left standing after the Board decision. However, claims 61-64 are dependent on claim 60.

MPEP § 1214.06 I (B) states in part:

"If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, the examiner, after expiration of the period for further appeal, should proceed in one of two ways:

(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which the appellant may rewrite the dependent claim(s) in independent form."

In the instant application, examiner clearly erred in not including dependent claims 61-64 in the 35 U.S.C. § 112 rejection of independent claim 60. As noted by the Board, claims 61-64 include the subject matter of claim 60 from which they directly or indirectly depend. Claims 61-64 do not remedy the lack of clarity of claim 60. Consequently, claims 61-64 are indefinite.

The Board elected not to include a 35 U.S.C. § 112 rejection of claims 61-64 as empowered to do under 37 C.F.R. § 1.196(b). Instead, the Board stated "(i)n the event of further prosecution the examiner should consider rejecting claims 61-64 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which the appellants regard as the invention." As noted in the petition, this language appears to be a suggestion by the Board that the examiner reopen prosecution in order to reject dependent claims 61-64 under the same § 112 basis cited against independent claim 60.

In order to correct his oversight in not including claims 61-64 in the 35 U.S.C. § 112 rejection of claim 60, examiner should have given applicant the opportunity to amend claims 60-64 to eliminate their lack of clarity. Accordingly, the Notice of Abandonment mailed March 2, 2004 is **VACATED** and the holding of abandonment is withdrawn.

The application is being forwarded to the examiner for consideration of the amendment after Board decision filed with the petition.

Any inquiry regarding this petition should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Director's Office
Office of Patent Publication

CHARLES BRANTLEY
MICRON TECHNOLOGY INC
8000 S FEDERAL WAY
MAIL STOP 525
BOSIE, ID 83716

In re Application of	:	
THAKUR, RANDHIR P.S., et al.	:	
Application No. 09/654,093	:	**DECISION ON PETITION**
Filed: August 31, 2000	:	
Attorney Docket No. 303.940US3	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent & Trademark (USPTO) on February 16, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee and publication, as required in the Notice of Allowance and Fee(s) due mailed June 9, 2005. The Notice of Abandonment indicates that the submitted fee of $0 is insufficient. A balance of $1700 is due. Issue fee required is $1,400 and the publication fee is $300.

The Office acknowledges receipt of PART B – FEE(S) TRANSMITTAL on September 9, 2005, authorizing that the Issue Fee, Publication Fee, and Advance Order Copies Fee be charged to Deposit Account No. 13-3092. Unfortunately, on September 12, 2005, when an attempt was made by the Office of Finance to charge such fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

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

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

There is no indication that law firm herein, Schwegman, Lundberg, Woessner & Kluth P.A., was ever empowered to prosecute the application. The application files 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 Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of address must be submitted. A courtesy copy of this decision will be mailed to the Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

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

Thomas E. Hawkins

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH P.A.
P.O. BOX 2938
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In re Application of :
Randhir P.S. Thakur et al. :
Application No. 09/654,093 :
Filed: August 31, 2000 :
Attorney Docket No. 94-0302.02 :

ON PETITION

This is a decision on the petition filed March 28, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned September 12, 2005 for failure to timely pay the issue fee on or before September 9, 2005. Accordingly, a Notice of Abandonment was mailed December 14, 2005.

The issue fee, petition fee and publication 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)).

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Paper No. 9

In re Application of
Peter Guthmann *et al*
Application No. 09/654,149
Filed: September 1, 2000
Attorney Docket No. 3916/59156-082

: DECISION ON PETITION

The papers filed by facsimile transmission on April 17, 2003 and styled as "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" have been referred to the undersigned for treatment as a petition under 37 CFR 1.181 to withdraw the holding that this application stands technically abandoned for failure to file a proper reply to the final rejection mailed on October 16, 2002. No fee is required for the petition, and none has been charged.

The petition is denied.

This petition is considered pursuant to 37 CFR 1.181 because petitioners urge that this application is not in fact abandoned by reason of the timely filing of a reply to the final rejection. Because a reply to a final rejection must comply with 37 CFR 1.113 and 37 CFR 1.116 in order to be considered to be a proper reply, the copy of the reply attached to the petition was forwarded to the examiner for review. The examiner reports that the reply does not, *prima facie*, place the application in condition for allowance on the existing record, and would not have been entered had it previously been placed before the examiner.

Pursuant to 37 CFR 1.113 and 1.116, and as discussed in MPEP §§ 714.12 and 714.13, applicants have an affirmative duty to file a reply to a final rejection that complies with the regulations. Applicants must monitor the status of such replies that may be filed, and may not rely upon the absence of a response to any reply that has been filed as being an indication that the reply has been entered. Accordingly, there is no basis for holding that this application does not presently stand abandoned.

The application is being forwarded to the examiner for preparation and mailing of a Notice of Abandonment. Petitioners' remedy appears to be a petition pursuant to 37 CFR 1.137. Petitioners should note that such petition must be accompanied by a proposed reply to the final rejection, and that the proposed reply must comply with 37 CFR 1.113 and 1.116. Any request for reconsideration of this decision must be filed within two months. See 37 CFR 1.181(f).

PETITION DENIED.

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

Robert E. Muir, Esq.
Hust & Eppenberger, LLC
401 Main Street
Suite 1400
Peoria, IL 61602

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JJGJr: 07-03

Paper No: 16

ROBERT E MUIR ESQ
HUSH & EPPENBERGER LLC
401 MAIN STREET
SUITE 1400
PEORIA IL 61602

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OFFICE OF PETITIONS

In re Application of
Guthmann, et al. :
Application No. 09/654,149 : ON PETITION
Filed: 1 September, 2000 :
Attorney Docket No.: 59156-082 :

This is a decision on the petitions:

- filed on 2 July, 2003, to revive under 37 C.F.R. §1.137(a),[1] and in light of the allegations considered as a petition 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.

and

- filed via FAX on 18 July, 2002, under 37 C.F.R. §1.137(b)[3] to revive the above-identified application 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**;
- the petition considered under 37 C.F.R. §1.181 to withdraw the holding of abandonment is **DISMISSED**; and
- the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES: Petitioner Robert E Muir (Reg. No. 23,017) insists (by telephone, through his associate David Chambers (Reg. No. 50,788)), that the record reflect that Mr. Muir authorized filing of the petition under 37 C.F.R. §1.137(b) "under protest" because he believes that his decision to file (what the Examiner determined to be) a paper that was not a proper reply to the 16 October, 2002, final Office action resulted in an abandonment resulting from unavoidable delay.

Petitioner is reminded that the requirements for a response to a final Office action are distinctly different from that for a response to a non-final Office action. And in this connection, Petitioner is directed to the 9 May, 2003, decision the Group Director, wherein she reminded Petitioner that

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

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

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * *

[3] 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.)

Petitioner "must monitor the status of [after-final replies such as that filed herein], and may not rely on the absence of a response to any reply that has been filed as being an indication that the reply has been entered."

Petitioner is referred to the regulations at 37 C.F.R. §1.111[4], §1.113,[5] and C.F.R. §1.116;[6] and to the commentary at MPEP §711.03(c).[7]

---

[4] The regulations at 37 C.F.R. §1.111 provide:

Sec. 1.111 Reply by applicant or patent owner to a non-final Office action.

(a)(1) If the Office action after the first examination (Sec. 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See Secs. 1.135 and 1.136 for time for reply to avoid abandonment.

(2) A second (or subsequent) supplemental reply will be entered unless disapproved by the Commissioner. A second (or subsequent) supplemental reply may be disapproved if the second (or subsequent) supplemental reply unduly interferes with an Office action being prepared in response to the previous reply. Factors that will be considered in disapproving a second (or subsequent) supplemental reply include:

(I) The state of preparation of an Office action responsive to the previous reply as of the date of receipt (Sec. 1.6) of the second (or subsequent) supplemental reply by the Office; and

(ii) The nature of any changes to the specification or claims that would result from entry of the second (or subsequent) supplemental reply.

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the
application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

[46 Fed. Reg. 29182, May 29, 1981, as amended at 62 Fed. Reg. 53192, Oct. 10, 1997; 65 Fed. Reg. 54672, Sept. 8, 2000]

[5] The regulations at 37 C.F.R. §1.113 provide:

§ 1.113 Final rejection or action.

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicants, or for *ex parte* reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114
or paragraph (c) of this section. For final actions in an *inter partes* reexamination filed under § 1.913, see §1.953.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.

(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.

[24 Fed. Reg. 10332, Dec. 22, 1959; 46 Fed. Reg. 29182, May 29, 1981; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 Fed. Reg. 50092, Aug. 16, 2000); para. (a) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

[6] The regulations at 37 C.F.R. §1.116 provide:

§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.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond properly and timely to the final Office action mailed on 16 October, 2002, with reply due (absent extension of time) on or before Thursday, 16 January, 2003;
- the application went abandoned after midnight 16 January, 2003;
- Notice of Abandonment was mailed on 21 May, 2003;
- Petitioner alleges, and supports with a date-stamped (16 December, 2002) receipt card (see: MPEP §503[8]), that he replied timely to the final Office action;

(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]

[7] The commentary at MPEP§711.03(c)(A)(2)(b) provides:
(b)Abandonment for Failure to Reply to a Final Action
A reply under 37 C.F.R. 1.113 to a final action "must include cancellation of, or appeal from the rejection of, each claim so rejected." Accordingly, 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:
(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 C.F.R. 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;
(C) the filing of a request for continued examination (RCE)(accompanied by a submission and the requisite fee)under 37 C.F.R. 1.114 for utility or plant applications filed on or after June 8,1995 (see paragraph **(d)** below); or
(D) the filing of a continuing application under 37 C.F.R. 1.53(b) (or a CPA under 37 C.F.R. 1.53(d) if the application is a utility or plant application filed before May 29,2000, or a design application).
When a notice of appeal is the reply filed pursuant to 37 C.F.R. 1.137(a)(1) or 1.137(b)(1), the time period under 37 C.F.R. 1.192 for filing the appeal brief will be set by the Commissioner in the decision granting the petition. An application subject to a final action in which a proposed amendment under 37 C.F.R. 1.116 is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC)to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application. The examiner is instructed that if the reply places the application in condition for allowance, the examiner should write in the margin of the reply "OK to enter upon revival."If the petition is otherwise grantable and the examiner indicates that the reply places the application in condition for allowance, the petition will be granted. If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. From PTOL-303 should not be mailed to the applicant by the examiner. In this situation, the Office of Petitions will not grant the petition. A copy of the form PTOL-303 is marked with the notation "Courtesy Copy " by the Office of Petitions..The courtesy copy is sent as an attachment with the decision on the petition. The advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection.

[8] 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.
* * *

- the Supervisory Patent Examiner (SPE) found that the 16 December, 2002, amendment failed to place the application in condition for allowance;

- on 17 April, 2003, Petitioner filed a petition under 37 C.F.R. §1.137(a), which was treated as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181;

- in her decision dated 9 May, 2003, the Group Director on denying the petition plainly stated for Petitioner that Petitioner had failed to file a proper reply (see: MPEP §711.03(c), *supra*) to the 16 October final Office action--i.e., a Notice of Appeal, a Request for Continued Examination with submission and fee (under 37 C.F.R. §1.114[9]), or an amendment that *prima*

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;
© 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 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.

[9] The regulations at 37 C.F.R. §1.114 provide:

§ 1.114 Request for continued examination.

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee

facie placed the application in condition for allowance;

- on 21 May, 2003, the SPE mailed an Advisory which reminded the Petitioner that the application had gone abandoned because the 16 December, 2002, amendment filed by Petitioner failed to place the application in condition for allowance;

- nonetheless, Petitioner re-advances in the instant petition(s) under 37 C.F.R. §1.137(a) (also considered under 37 C.F.R. §1.181) the very same argument previously rejected by the Group Director--and does so with the same showing as that made before;

- Petitioner, however, does submit with the petition(s) under 37 C.F.R. §1.137(a) (also considered under 37 C.F.R. §1.181) an RCE with submission and fee;

- on 17 July, 2003, a telephone call was placed to Petitioner to raise the aforementioned issues with him;

- on 18 July, 2003, Petitioner filed the petition under 37 C.F.R. §1.137(b), but did so "under protest," as noted above.

STATUTES, REGULATIONS AND ANALYSIS

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

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set forth in § 1.17(e) prior to the earliest of:
(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.
(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.
(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or related papers, will not be considered a submission under this section.
(e) The provisions of this section do not apply to:
(1) A provisional application;
(2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;
(3) An international application filed under 35 U.S.C. 363 before June 8, 1995;
(4) An application for a design patent; or
(5) A patent under reexamination
[Added 65 FR 14865, Mar. 20, 2000, effective May 29, 2000; revised 65 FR 50092, Aug. 16, 2000, effective Aug.16, 2000]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[10]

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.[11]

Delays in responding properly raise the question whether delays are unavoidable.[12] 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).[13]

And the Petitioner must be diligent in attending to the matter.[14] Failure to show diligence does not constitute the care required under Pratt.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[15]))

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

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[10] 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.

[11] 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.

[12] 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).

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

[14] 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.

[15] 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.

of a holding of abandonment.[16]

Petitioner has failed to evidence that the Office improperly deemed the instant application abandoned, and thus fails to satisfy the requirements for having the holding of abandonment withdrawn.

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[17]

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.[18]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[19]

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

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

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

Presuming for the purposes of discussion that it was an act/omission of Counsel that contributed to any of the delay herein, the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client[20] in the absence of evidence that the attorney/agent has acted to deceive the

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

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

[18] 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).

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

[20] 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).

client.[21]

(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.[22] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[23] Such delays are inconsistent with a showing of diligence in the prosecution of one's application,[24] and such a course of action would preclude revival of an application under 37 C.F.R. §1.137.[25])

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.[26]

Allegations as to the Petition
Alleging Unintentional Delay

Petitioner has filed the petition (with fee authorization), made the statement of unintentional delay and filed a reply in the form of an RCE. Petitioner has satisfied the "petition," "fee," "statement" and "reply" requirements of the regulation.

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[21] 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).

[22] 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).

[23] 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.

[24] 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).

[25] 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).

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

CONCLUSION

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

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

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

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

The instant application is being forwarded to Technology Center 3700.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025-1026

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of :
James A. Kliegel :
Application No. 09/654,214 :
Filed: September 1, 2000 : ON PETITION
Title of Invention: :
METHOD OF ANALYZING AND :
COMPUTING ANISOTROPIC :
TURBULENT FLOWS :

This is a decision on the Petition to Revive, filed October 5, 2005. The petition is properly treated under 37 CFR 1.137(b).

The petition is **dismissed.**

Any further petition to revive the above-identified application (under 37 CFR 1.137(b)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 21, 2004. The Office action set a three (3) month period for reply. No reply having been filed, the application became abandoned on March 22, 2005.. A Notice of Abandonment was mailed on June 30, 2005.

The instant petition

Applicant files the instant petition and Amendment. Applicant is advised that the Examiner has reviewed the Amendment, and has concluded that the Amendment raises new issues and thus fails to place the application in condition for allowance.

Applicable Law, Rules & MPEP

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)).

This petition lacks item (**1**) above. The Amendment fails to place the application in condition for allowance. Accordingly, the required reply has not been submitted. Applicant may wish to consider filing a Request for Continued Examination in order to have the Amendment as filed, considered.

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

Paper No. 19

SALIWANCHIK, LLOYD
& SALIWANCHIK
2421 NW 41ST STREET, SUITE A-1
GAINESVILLE, FL 32606-6669

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Patent No. 6,384,087 :
Issue Date: May 7, 2002 :
Application No. 09/654,357 : ON PETITION
Filed: September 1, 2000 :
Attorney Docket No. UTR-104 :

This decision concerns the March 18, 2003 petition under 37 CFR 1.182, requesting that the name of one of the inventors be changed.

The petition is **GRANTED**.

When an inventor has changed his/her name after the filing of an application and wishes to have the new name reflected in the application/patent, he/she must file a petition under 37 CFR 1.182 that includes:[1] (1) a $130 petition fee; (2) an affidavit signed with both names; setting forth the procedure whereby the name change was effected, or enclosing a certified copy of the court order.

The instant petition encloses a declaration by this inventor, Paula C. Zemel, stating that her name has been restored to Paula Carney, her maiden name, through a final divorce decree. This inventor also signed the declaration with both names. In addition, the petition authorizes the Office to charge the $130 petition fee to Deposit Account No. 19-0065. The petition is thus granted.

The file is being forwarded to Technology Center 1600 **for entry of the inventor name change (from "Paula C. Zemel" to "Paula Carney") in the USPTO record.**[2]

Since the rights to this patent have been assigned, counsel should also correct the assignment record.[3]

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

RC Tang
Petitions Attorney
Office of Petitions

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1 MPEP section 605.04(c) (Rev. 1, Feb. 2003).

2 MPEP sections 605.04(f), (g) (Rev. 1, Feb. 2003).

3 See MPEP section 605.04(c) (Rev. 1, Feb. 2003) for guidance.

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

McAndrews, Held, & Malloy, LTD
500 West Madison Street
Suite 3400
Chicago, IL 60661

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JAN 1 0 2007

OFFICE OF PETITIONS

In re Application of
Onur Takin
Application No.: 09/654,376
Filed: September 1, 2000
Attorney Docket No.: 17428US01
For: VOICE AND DATA EXCHANGE OVER A PACKET BASED NETWORK WITH VOICE DETECTION

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed August 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 08, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on June 08, 2006.

On August 14, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) petition fee; (2) the required statement of unintentional delay, (3) the required reply in the form of the payment of the issue fee; and (4) a terminal disclaimer. Accordingly, the issue fee payment is accepted as having been unintentionally delayed.

The application is being referred to the Office of Publications.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/15/10

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 09654401 Patent No.: 6993462

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

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: _____

_____ 1/26/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

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Commissioner for Patents
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PHILIP ALBERT
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER FLOOR EIGHTH
SAN FRANCISCO, CA 94111

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MAY 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Janice Yoo et al	:	
Application No. 09/654,405	:	DECISION ON PETITION
Filed: September 1, 2000	:	TO WITHDRAW
Attorney Docket No. 017887/007600US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Philip Ablert and customer# 20350 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 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
Petitions Examiner
Office of Petitions

cc: Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Thomas M. Jessell et al :
Application No. 09/654,462 :
Filed: September 1, 2000 :
Attorney Docket No. 62166/JPW/EMW :

ON PETITION

This is a decision on the petition, filed July 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 March 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1632 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 9

Bever Hoffman & Harms
Tri-Valley Office
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

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FEB 04 2004

OFFICE OF PETITIONS

In re Application of	:	
Malcolm G. Smith, Sr.	:	
Application No. 09/654,542	:	ON PETITION
Filed: September 1, 2000	:	
Attorney Docket No. ULT-005-2C3C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 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, to the final Office action mailed September 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 2003.

The application file is being forwarded to Technology Center 2876, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

David G. Beck
Bingham McCutchen, LLP
Three Embarcadero Center
San Francisco, CA 94111

In re application of
James Peterson et al.
Application No. 109/654,627 :
Filed: September 5, 2000 :
For: SYSTEM AND METHOD FOR TAX SENSITIVE PORTFOLIO OPTIMIZATION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on September 9, 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 as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been changed, and there is no evidence in the file that the attorney signing the request ever actually had power in this case.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

snm: 11/9/02

cc: Gray, Cary, Ware & Freidenrich LLP
153 Townsend
Suite 800
San Francisco, CA 94107

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P.O. Box 1450
Alexandria, VA 22313-1450
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SILICON EDGE LAW
GROUP, LLP
6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON, CA 94566

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of

Chau, et al.

Application No. 09/654,643

Filed: September 5, 2000

Attorney Docket No RA-194
(RA194.P.US)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 9, 2005, which set a shortened statutory period for reply of three (3) months. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. No response was received within the allowable period. Accordingly, the application became abandoned on August 10, 2005. A Notice of Abandonment was mailed on February 3, 2006.

The amendment filed April 3, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2638 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BRIAN ROFFE
11 SUNRISE PLAZA SUITE 303
VALLEY STREAM, NEW YORK 11580-6111

AUG 29 2005

In re Application of
David S. Breed
Application No. 09/659709
Filed: 24 August 2000
For: SYSTEM FOR ONSITE PROGRAM DISTRIBUTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed October 07, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, passport, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a passport showing that David S. Breed is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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SEP - 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fernandez & Associates LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

In re Application of:
Dominic Paul MCCARTHY, et al.
Application No. 09/654,718
Filed: September 5, 2000
For: METHOD FOR COORDINATING INFORMATION FLOW BETWEEN COMPONENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 12, 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.

BEST AVAILABLE COPY

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

cc: Dave Ashby
IP Strategy Group
10121 Miller Avenue
Cupertino, CA 95014

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

November 13, 2002

Kristina Bieker-Brady
Clark & Elbing
176 Federal St.
Boston, MA 02110

In re application of:
Robert G. Korneluk et al
Serial No.: 09/654,743
Filed: September 1, 2000

DECISION ON PETITION

For: MANNALIAN IAP GENE FAMILY, PRIMERS, PROBES, AND DETECTION METHODS

This is a decision on the petition received September 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 Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures was mailed on January 10, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned March 11, 2002. A notice of abandonment was mailed on August 9, 2002.

On September 24, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney response to the Notice on March 7, 2002.

The evidence submitted is sufficient to establish that the petitioners did respond to the Notice on March 7, 2002. Enclosed was an acknowledgment that the attorney responded to the Notice on March 7, 2002.

The petition is hereby GRANTED.

The original response received March 7, 2002, has been located and entered into the records of the application

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

The application has been completed for release to Technology Center 1643.

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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DAVIS WRIGHT TREMAINE LLP
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES CA 90017-2566

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of :
Oren Zamir et al. :
Application No. 09/654,801 : ON PETITION
Filed: September 5, 2000 :
Attorney Docket No.: 13312.6USI1 :

This is a decision on the petition filed January 20, 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 June 29, 2005, for failure to timely submit a timely response to the non-Final Office Action mailed March 28, 2005, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed December 15, 2005.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment, a three month extension of time request and a post card receipt date stamped September 26, 2005 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed on September 26, 2005. Accordingly, the Notice of Abandonment mailed December 15, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2141 for appropriate action on the amendment filed September 26, 2005, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas R. FitzGerald
JAECKLE FLEISCHMANN & MUGEL LLP
39 State Street
Rochester, NY 14614-1310

APR 7 2003

In re Application of:	:	
HAO *et al.*	:	DECISION ON PETITION
Application No. 09/654,845	:	TO WITHDRAW HOLDING
Filed: September 01, 2000	:	OF ABANDONMENT
Attorney Docket No. 87552.99R272/SE-1528PD	:	

This is a decision on the request filed March 03, 2003, to reconsider the holding of abandonment. This request is being 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 April 01, 2002. A Notice of Abandonment was mailed on February 11, 2003.

Petitioner asserts that on July 01, 2002, 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 July 10, 2002 of a response to an Office action, certificate of first class mail and a return receipt acknowledgment postcard.

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 July 10, 2002 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

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Paper No. 4

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

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MAR 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Orly Yadid-Pecht et al. :
Application No. 09/654,922 :
Filed: September 5, 2000 :
Attorney Docket No. 06816 / 021002 CIT 2386 :

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 2600.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,532,708	2003-03-18	09/654,932	2000-08-31	15446-500002

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	/Paul A. Keller/	Date (YYYY-MM-DD)	2008-08-04
Name	Paul A. Keller	Registration Number	29752

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6532708
Issue Date: March 18,2003
Application No. 09654932
Filed: August 31,2000
Attorney Docket No. MOF-12

:

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

:

This is a decision on the electronic petition, filed August 4,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DARRYL MEXIC
SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Jo et al.	:	
Application No. 09/654,939	:	DECISION ON PETITION
Filed: December 22, 2000	:	
Attorney Docket No. Q60198	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2624 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

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JAN 04 2002

OFFICE OF PETITIONS

In re Application of Kozoriz Application No. 09/654,964 Filed: September 5, 2000 For: SUPER CONDUCTIVE BEARING	DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.47(b), filed on September 5, 2000, requesting that Global Trading & Technology, Inc. ("Global") be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The petition is **DISMISSED.**

The sole inventor for the claimed invention in this application is Vasyl' V. Kozoriz ("Kozoriz"), who allegedly has entered into an "Intellectual Property Rights and Invention Development Contract" ("Contract")[1] with Global, under which "the invention and all the proprietary rights thereto have been duly assigned in the entirety to Global."[2]

Under 37 CFR 1.47(b), if the sole inventor, as alleged in the instant case, refuses to execute an application for patent, a person[3] **with demonstrated proprietary interest**[4] may make application on behalf of and as agent for this inventor.[5] Specifically, with respect to the instant case, the 37 CFR 1.47(b) applicant, i.e., Global, **must**:

(1) **make out a *prima facie* case that Kozoriz has assigned, or agreed in writing to assign the invention,** which is the subject matter of this application, **to Global; or that Global otherwise has sufficient proprietary interest in this invention for**

---

1 Such a "contract" was presented to the PTO with the 9/5/00 application as an "assignment" of rights to this application and the patent ultimately granted. This document was recorded on 9/5/00.

2 Petition, page 1, paragraph 2, Statement, 2nd to the last sentence.

3 A "person" can be a natural person or a legal entity such as a corporation; see MPEP section 409.03(b) (Aug. 2001).

4 See MPEP sections 409.03(b), (f) (Aug. 2001) (E.g., a "person" to whom the inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the patent application to justify the filing of such an application.).

5 This "person" then becomes the so-called "37 CFR 1.47(b) applicant."

justifying this application:[6]

(a) If the application has been assigned to Global, a **copy of the assignment**, in addition to a statement under 37 CFR 3.73(b) by Global, must be submitted, and **must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to Global**;[7]

(b) If, instead, Kozoriz has agreed in writing to assign the invention, which is the subject matter of this application, to Global, a copy of such an agreement should be submitted;[8]

(c) A proprietary interest in the invention, which is the subject matter of this application, if obtained by Global through means other than (a) or (b), may be demonstrated by an **appropriate legal memorandum** to the effect that a court of competent jurisdiction would be the weight of authority in that jurisdiction to award title of this invention to Global;[9]

(2) properly make the oath;[10]

(3) state the relationship between Global and Kozoriz, as required by 37 CFR 1.64;[11]

(4) submit **proof** that:

(i) a *bona fide* attempt was made by Global to present an **entire** copy of the application (specification including claims, drawings, and

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6 MPEP sections 409.03(b)(E), 409.03(f) (Aug. 2001).

7 MPEP section 409.03(f) (Aug. 2001).

8 Typically an employment agreement where the employee (nonsigning inventor) agrees to assign to his employer (37 CFR 1.47(b) applicant) all inventions made during employment; see MPEP section 409.03(f) (Aug. 2001). Such an agreement must be accompanied by **a statement of a person having firsthand knowledge** of the pertinent facts, establishing **that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant**. *Id.*

9 E.g., an **affidavit or declaration** by the person having firsthand knowledge of the facts supporting the conclusion that a court would award title of this invention to Global. Such a person may be an attorney at law familiar with the law of the jurisdiction involved (federal, state, foreign). See MPEP section 409.03(f) (Aug. 2001).

10 See MPEP sections 409.03(b)(A), 409.03(f) (Aug. 2001) (I.e., an oath in accordance with 37 CFR 1.63 and 1.64, and signed by an officer of Global, if Global is properly proven to be the party with sufficient proprietary interest in this invention to justify this application.).

11 MPEP section 409.03(b)(B) (Aug. 2001).

oath or declaration) to Kozoriz for signature;[12] and

(ii) Kozoriz refused to sign the application;[13]

(5) state Kozoriz's last known address;[14] and

(6) **prove** that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[15]

The "Contract" presented by Global to the PTO on September 5, 2000 for recordation, which was subsequently recorded by the PTO, lacks item (1) above in that, it does not include any information for the Office to conclude that it is an **assignment that clearly indicates that the invention claimed in this application was assigned to Global**.[16]

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[12] MPEP section 409.03(d) (Aug. 2001).

[13] MPEP section 409.03(b)(C) (Aug. 2001).

[14] MPEP sections 409.03(b)(D), 409.03(e) (Aug. 2001).

[15] MPEP sections 409.03(b)(F), 409.03(g) (Aug. 2001) (Such a showing can be a statement that a filing date is necessary to preserve the rights of the parties or to prevent irreparable damages).

[16] As stated in 37 CFR 3.54, **the recording of this "Contract" in the PTO is not a determination by the PTO of the validity of this "Contract," or the effect this "Contract" has on the title to this application or the ultimate patent granted**.

In addition, the document recorded at the PTO on 9/5/00 is merely a general contract which:
- -appears to refer to future transfer of future interests; see clause 2 of Contract ("**[Kozoriz] shall execute an assignment of Patent Form which shall be recorded in the U.S. Patent Office at such time the patent(s) are issued.**");
- -does not refer specifically to this application, or the invention that is the subject matter of this application;
- -contains, on the last page:
  - -a "Special **Power of Attorney** by Owner and Seller of Intellectual Property" **appointing** Walter G. Reiner, owner of Global, as "**true and lawful attorney for Vasyl' Kozoriz**":
    - -If this Power of Attorney is accepted, Water G. Reiner would manage certain of Kozoriz's intellectual property, and consequently **cannot possibly be also the assignee of the same intellectual property**;
    - -This Power of Attorney refers to ". . . eventual patenting" of "**Inelastic Magnetic Bearing**" and "**Manufacture for Acceleration or Braking or both and Method of Use**," neither of which bears ready resemblance to the invention claimed in the application at issue;
- -is not executed.

Given that Global, being a 37CFR 1.47(b) applicant, **fails to meet <u>even</u> the threshold requirement specified in item (1)** above, the instant petition is thus dismissed and the declaration signed by Global on behalf of and as agent for Kozoriz is not accepted.

To prevent abandonment of this application,[17] **either** of the following **must** be filed within **TWO (2) MONTHS** from the mailing date of this decision:[18]

-An oath or declaration executed by Kozoriz in accordance with 37 CFR 1.63;[19]

-A renewed petition under 37 CFR 1.47(b).[20] Such renewed petition (no fee), to be grantable, must include all elements specified in items (1)-(6) above.

This 2-month period may be extended under 37 CFR 1.136(a).

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 CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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[17] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) **to avoid abandonment**).

[18] See 37 CFR 1.181(f).

[19] To be filed directly with the Initial Patent Examination Division, PTO, along with the $130 surcharge, without any petition.

[20] To be filed as instructed below.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 08-02

Paper No. 7

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Kozoriz
Application No. 09/654,964
Filed: September 5, 2000
For: SUPER CONDUCTIVE BEARING

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This is a decision on the renewed petition under 37 CFR 1.47(b), filed on February 22, 2002 and supplemented on July 18, 2002, requesting that Global Trading & Technology, Inc. ("Global") be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The renewed petition is **GRANTED.**

The sole inventor for the claimed invention in this application is Vasyl' V. Kozoriz ("Kozoriz"). Global alleges having entered into an "Intellectual Property Rights and Invention Development Contract" ("Contract") with Kozoriz, under which "the invention and all the proprietary rights thereto have been duly assigned in the entirety to Global."[1] A petition under 37 CFR 1.47(b) was filed with the application on September 5, 2000. That petition was dismissed on January 4, 2002 because Global failed to demonstrate possession of a proprietary interest in the invention at issue for justifying filing this application on behalf of and as agent for Kozoriz, i.e., it did not make out a *prima facie* case that Kozoriz had assigned or agreed in writing to assign his rights in the claimed invention in this application to Global or that Global had otherwise obtained sufficient proprietary interest in this invention.[2]

The instant renewed petition includes a statement by Lois Reiner, Secretary and Treasurer of Global ("Reiner") ("Reiner Statement"); a Declaration and Power of Attorney for this application, signed by Reiner; an affidavit by Reiner ("Reiner Affidavit"); a memorandum by counsel for Global ("Marshall Memorandum"); and an affidavit by a Daniel E. Strohecker ("Strohecker Affidavit") who allegedly conducted prior art search with respect to the claimed invention in this application and prepared the drawings and specification for the application.[3]

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[1] 9/5/00 Petition, page 1, paragraph 2, Statement, 2nd to the last sentence. This "Contract" was recorded in the PTO on 9/5/00.

[2] See Paper No. 4.

[3] Strohecker Affidavit, page 1, 5th & 7th paragraphs. Even though Kozoriz has always been presented as the sole inventor of the invention at issue, and Strohecker's name has never previously been associated with this application, this affidavit states (in the 3rd & 4th paragraphs of page 1) that Strohecker was hired by Global to work with Kozoriz on the "development" of this invention, apparently implying Strohecker's joint effort in reducing this invention to practice.

In addition, in a telephone interview on July 9, 2002, the Office requested from counsel for Global a more legible copy of the **entire** "Contract," including the page where the alleged "contracting parties" signed, if any, due to the concern that the copy of "Contract" recorded in the PTO may not include all pertinent pages, or that the pages contained therein may not be in the right order for showing that this "Contract" was properly executed. In response, counsel supplemented the petition on July 18, 2002 with an affidavit by counsel ("Marshall Affidavit"), a memorandum by Walter G. Reiner, President of Global ("Reiner Memorandum"), and a copy of a "duly executed contract."[4]

The Reiner Statement, the Reiner Affidavit, the Marshall Memorandum, the Strohecker Affidavit, the Marshall Affidavit, and the Reiner Memorandum collectively assert that Kozoriz has, through the "contract," assigned all of his rights in the invention at issue to Global.[5] The Reiner Memorandum and the Marshall Affidavit further contend that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[6]

In view of the above, the Office concludes that Global has:

-demonstrated proprietary interest in this application to file it in the USPTO on behalf of and as agent for Kozoriz;
-properly made the oath;[7]
-stated the relationship between Global and Kozoriz, as required by 37 CFR 1.64;[8]

---

[4] Marshall Affidavit, page 1, 2nd-7th paragraph.

[5] As described in the Marshall Affidavit, this "duly executed contract" is a 7-page document consisting of:

-serially-numbered first 4 pages with the first page captioned "Intellectual Property Rights and Invention Development Contract";
-a 5th page, entitled "Vasyl' Kozoriz (Vassili Kozorez) and Global Trading & Technology Inc., Contract for Intellectual Property Rights and Invention Development" and not numbered, bears the signatures of Walter G. Reiner and Kozoriz that are not attested to;
-a 6th page entitled "Certificate of Acknowledgment of Execution of an Instrument" in conjunction with a 7th page entitled "Special Power of Attorney by Owner and Seller of Intellectual Property," apparently signed by Kozoriz before the Vice Consul and 2 witnesses at the United States Embassy in Ukraine, and enables Marshall to prosecute the Super Conductive Bearing patent application (Marshall Affidavit, page 2, lines 2-4).

[6] Reiner Memorandum, page 2, 2nd to last paragraph; Marshall Affidavit, page 2, last sentence.

[7] The 9/5/00 "Declaration and Power of Attorney" was executed by Walter Reiner, an officer of Global. See MPEP sections 409.03(b)(A), 409.03(f) (Aug. 2001).

[8] MPEP section 409.03(b)(B) (Aug. 2001). Based on the petition, the renewed petition, and the accompanying papers (e.g., instant renewed petition, page 2, paragraph 4.04 & 4.05), Global has, through the "contract," provided Kozoriz an expense-paid trip to the U.S. to reduce the invention Super Conductive Bearing to practice.

-submitted proof that:
-a *bona fide* attempt was made by Global to present an entire copy of the application, including specification and claims, to Kozoriz for signature;[9] and
-Kozoriz refused to sign the application;[10]
-stated Kozoriz's last known address;[11] and
-shown that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[12]

The instant renewed petition is thus granted, and the Declaration and Power of Attorney signed by Walter Reiner and filed with the application on September 5, 2000 is accepted.[13]

No fee is owed.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Kozoriz at his last known address stated in the petition: 5 Poljarna Street, Apartment 99, Kyvi (Kiev) 201, Ukraine. Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 2800 for examination in due course.

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

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

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9 E.g., instant renewed petition, paragraph 2.04 under "Statement." See MPEP section 409.03(d) (Aug. 2001).

10 E.g., instant renewed petition, page 3, paragraph 4.12 under "Affidavits." See MPEP section 409.03(b)(C) (Aug. 2001).

11 MPEP sections 409.03(b)(D), 409.03(e) (Aug. 2001).

12 MPEP sections 409.03(b)(F), 409.03(g) (Aug. 2001) (Such a showing can be a statement that a filing date is necessary to preserve the rights of the parties or to prevent irreparable damages). A statement to this effect is contained in the petition; see *supra* note 6.

13 The instant renewed petition also encloses a Declaration and Power of Attorney signed by Lois Reiner.

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

Paper No. 4

Patrick J S Inouye P S
801 3rd Avenue
Suite 258
Seattle, Washington 98104

MAILED

MAY 1 5 2002

Technology Center 2100

In re Application of: Cameron O'Rourke et al.)
Application No. 09/654,998)
Filed: August 31, 2000)
For: SYSTEM AND METHOD FOR DYNAMICALLY GENERATING WEB DOCUMENT CONTENT USING A RULES-BASED ENGINE AND IMPLICIT TEMPLATE HIERARCHY)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed April 18, 2002.

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

The request is **GRANTED**.

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

Vincent N. Trans
Special Programs Examiner

Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 305-9750

cc: Hickman, Palermo, Truong & Becker
1600 Willow Street
San Jose, California 95125

UNITED STATES PATENT AND TRADEMARK OFFICE

3-29-07

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

Patent No. : 6,866,572B1
Ser. No. : 09/654,998
Inventor(s) : Cameron Gene O'Rourke
Issued : October 3, 2006
Title : GENERATING A WEB PAGE BY REPLACING IDENTIFIERS IN A PRECONSTRUCTED WEB PAGE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or ext.102

Hickman Palermo Truong & Becker
2055 Gateway Place, Suite 550
San Jose, CA 95110

ej

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

In re Patent No. 7,117,436	:	
Issue Date: October 3, 2006	:	
Application No. 09/654,998	:	ON PETITION
Filed: August 31, 2000	:	
Attorney Docket No. 50277-1950	:	

This is a decision on the petition filed March 31, 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.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioner has provided a request for a certificate of correction under § 1.323 and the $100 fee required by § 1.20(a) on January 19, 2007; however, the processing fee set forth in § 1.17(i) has not been paid. The $130 processing fee is being charged to counsel's deposit account as authorized. Accordingly, the request is found to comply with the provisions of 37 CFR 3.81(b).

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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TRASK BRITT
P.O. BOX 2550
SALT LAKE, CITY UT 84110

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OFFICE OF PETITIONS

In re Application of

Noteborn and Danen-Van Oorschot

Application No. 09/655,109

Filed: September 5, 2000

Attorney Docket No. LEBV.008.01US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005, to revive the above-identified application.

The 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 1, 2003, which set a shortened statutory period for reply of one (1) month from its mailing date. No extensions of time were obtained within the allowable period, and no reply was received. Accordingly, the application became abandoned on November 2, 2003. A Notice of Abandonment was mailed on October 6, 2004.

The response to the election/restriction requirement filed July 19, 2005, is noted.

The application is being forwarded to Technology Center 1600, GAU 1632 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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Fish & Richardson
PO Box 102
Minneapolis, MN 55440-1022

In re Application of
Sites et al.
Application No. 09/655,119
Filed: September 5, 2000
Attorney Docket No. 07844-380001/P356

: DECISION DISMISSING PTA REQUEST

This decision is in response to Patentees "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on May 26, 2006 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 685 days to a determination of either 1266 or 1343 or 810 days.

Applicants' request is **DISMISSED**.

Applicants argues that the Office erred in calculating the proper PTA because the Office's reply on November 17, 2004 failed to comply with 35 U.S.C. 132 and was thus improper. The applicants assert that an effective response was not mailed until October 20, 2005, 581 days later. Alternatively, the applicants allege that the May 23, 2005 action did not meet the requirements of 35 U.S.C. 132 until October 20, 2005 a delay of 125 days.

35 U.S.C. 132 provides:

35 U.S.C. 132 Notice of rejection; reexamination.

(a) Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.
reply.

Patentee's argument are not persuasive. The Office maintains that the each of the Office actions

[1]Issue fee paid on May 26, 2006

of November 17, 2004, 5/23/2005 and 10/20/2005 meet the requisite requirements of 35 U.S.C. 132 and accordingly are proper. Accordingly, the delays accorded both applicant and the Office are correct. The Office delayed by a period of 451 days pursuant to 37 CFR 1.702(a)(1) and 244 days pursuant to 37 CFR 1.702(a)(2) and applicant delayed a total of (6 + 4) days pursuant to 37 CFR 1.704(b). The proper amount of PTA at the time of the mailing of the notice of allowance is 685 days (695-10) as determined.

The USPTO notes that the Office will send a determination of PTA at the time of the issuance of the patent and such consideration will include USPTO delays pursuant to 37 CFR 1.702(a)(4) and 37 CFR 1.702(b). In addition, any applicant delay pursuant to 37 CFR 1.704)(c)(10) will also be determined at the time of the issuance of the patent. This determination will be mailed to applicants approximately three weeks prior to issuance of the patent, in a letter titled issue notification letter.

After the mailing of this decision, the Office will forward this application to the Office of Patent publications for a prompt issuance of the patent.

The Office has assessed the $200.00 fee for this submission of this application under 37 CFR 1.705(b) on May 26, 2006. No additional fees are required in this determination.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A Fries

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

Day : Sunday
Date: 9/10/2006

PALM INTRANET

Time: 11:09:18

PTA Calculations for Application: 09/655119			
Application Filing Date:	09/05/2000	PTO Delay (PTO):	695
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	10
Post-Issue Petitions:	0	Total PTA (days):	685
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
36	02/27/2006	MAIL NOTICE OF ALLOWANCE			
35	02/16/2006	ISSUE REVISION COMPLETED			
34	02/16/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	02/06/2006	NOTICE OF ALLOWABILITY			
32	01/30/2006	DATE FORWARDED TO EXAMINER			
31	01/19/2006	RESPONSE AFTER NON-FINAL ACTION			
30	11/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
29	10/20/2005	MAIL SUPPLEMENTAL NON-FINAL ACTION			
28	10/17/2005	SUPPLEMENTAL NON-FINAL ACTION			
27	05/23/2005	MAIL NON-FINAL REJECTION			
26	05/16/2005	NON-FINAL REJECTION			
25	03/05/2005	DATE FORWARDED TO EXAMINER			
24	02/17/2005	RESPONSE AFTER NON-FINAL ACTION			
23	11/17/2004	MAIL NON-FINAL REJECTION	244		16
22	11/15/2004	NON-FINAL REJECTION			
21	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	12/08/2003	MISCELLANEOUS INCOMING LETTER			
17	11/24/2003	DATE FORWARDED TO EXAMINER			
16	11/18/2003	RESPONSE AFTER NON-FINAL ACTION		4	15
15	08/14/2003	MAIL NON-FINAL REJECTION			
14	08/08/2003	NON-FINAL REJECTION			
13	05/15/2003	DATE FORWARDED TO EXAMINER			
12	05/06/2003	RESPONSE AFTER NON-FINAL ACTION		6	11
11	01/30/2003	MAIL NON-FINAL REJECTION	451		-1

10	01/27/2003	NON-FINAL REJECTION			
9	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	11/26/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	03/16/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	03/15/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	10/25/2000	APPLICATION DISPATCHED FROM OIPE			
3	10/24/2000	CORRESPONDENCE ADDRESS CHANGE			
2	09/26/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/05/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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865 FIGUEROA STREET
SUITE 2400
LOS ANGELES CA 90017-2566

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OFFICE OF PETITIONS

In re Patent No. 6,999,957	:	
Issue Date: February 14, 2006	:	
Application No. 09/655,185	:	NOTICE
Filed: September 5, 2000	:	
Attorney Docket No. 68393-7	:	

This is a notice regarding your request filed October 29, 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 **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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DAVIS WRIGHT TREMAINE LLP/Los Angeles
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES CA 90017-2566

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 6,999,957	:	
Issue Date: February 14, 2006	:	
Application No. 09/655,185	:	NOTICE
Filed: September 5, 2000	:	
Attorney Docket No. 68393-7	:	

This is a notice regarding your request filed October 29, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

This is a notice regarding your request filed November 3, 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 patent 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

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of
Chung Nan Chang
Application No. 09/655,229
Filed: September 5, 2000
Attorney Docket No. 2174

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 6, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 19, 2006. This decision precedes the mailing of a Notice of Abandonment. On January 12, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications 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 at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

JUL 14 2003

UR
PAPER NO.4

In re Application of	:	
Parviz Khosrowyar	:	DECISION
Serial No. 09/655,269	:	ON
Filed: September 05, 2000	:	PETITION
For: OXIDIZING UNDESIRED COMPOUNDS	:	UNDER 708.02, VIII
RESIDENT -------WITH REBOILER	:	
UTILIZATION	:	

This is in response to the petition filed June 02, 2003, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 588, Subclasses 213 and 226 should have been searched.

Accordingly, the petition is **DENIED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Head, Johnson & Kachigian
228 W. 17TH Place
Tulsa, OK 74119

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HEAD JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Parviz Khosrowyar :
Application No. 09/655,269 : ON PETITION
Filed: September 5, 2000 :
Attorney Docket No. KHO820/99482 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 11, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on August 12, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 1, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 12, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 11, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1754 for processing of the RCE filed April 22, 2005 and for consideration of the concurrently filed Amendment.

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

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON, VA 22201-2909

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JUN 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard M. Schwartz, et al. :
Application No. 09/655,325 :
Filed: September 5, 2000 :
Attorney Docket No. 99-470 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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 Jeffrey A. Berkowitz 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. Berkowitz desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Until otherwise instructed, all future correspondence regarding this application will be directed solely to the address of record.

This application became abandoned for failure to timely reply to the final Office action mailed July 12, 2006. This decision precedes the mailing of a Notice of Abandonment. On March 6, 2007 the present petition was filed.

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), including the fee of $790; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

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

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

The application file is being forwarded to Technology Center AU 1753, for further processing of the request for continued examination under 37 CFR 1.114 filed March 6, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY BERKOWITZ
FINNEGAN HENDERSON FARABOW
GARRETT AND DUNNER LLP
11955 FREEDOM DR
RESTON, VA 20190

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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Mailed: APAPR 8 2004

spg
Paper Number 12

In re application of	:	
Michael Catt et al.	:	DECISION ON
Serial No. 09/655,355	:	PETITION
Filed: September 5, 2000	:	
For: FERTILITY COMPUTING SYSTEM AND METHOD	:	

This is a response to the REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT OR REVIVAL OF ABANDONED APPLICATION filed on January 2, 2004. The request asks that the Notice of Abandonment mailed July 9, 2003, for failure to timely file new formal drawings as required in the Notice of Allowability, be withdrawn since the Notice of Allowability in fact did not require formal drawings.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the request cannot be granted. The applicant is correct in stating that the Notice of Allowability does not require formal drawings as stated in the Notice of Abandonment. It is clear that the Notice of Abandonment should have stated that the "application is abandoned in view of Applicant's failure to timely file a proper response to the Office letter mailed on March 26, 2003" - the incorrect box was checked on the Notice of Abandonment. The Office letter mailed March 26, 2003, clearly states that the drawings filed September 5, 2000 are not acceptable for the reasons identified on the attached PTO-948 and that "Applicant is given one opportunity to correct the informalities within a two month time period from the mailing date of this Notice. THIS TIME PERIOD IS NOT EXTENDABLE UNDER EITHER 37 CFR 1.136(a) OR 1.136(b). Failure to take corrective action within the set period will result in abandonment of the application.". Therefore, in view of the failure of the Applicant to correct the drawing informalities within the set two month time period from the mailing date of the March 26, 2003 Office letter it is clear that the application was properly abandoned.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON CO 80435-5068

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Mailed: NOV 1 2 2004

Paper Number _____

In re application of	:	
Michael Catt et al.	:	DECISION ON
Serial No. 09/655,355	:	PETITION
Filed: September 5, 2000	:	
For: FERTILITY COMPUTING SYSTEM AND METHOD	:	

This is a response to the REQUEST FOR RECONSIDERATION OF DECISION ON PETITION filed on April 12, 2004. The request asks that the Notice of Abandonment mailed July 9, 2003, for failure to timely file new formal drawings as required in the Notice of Allowability, be withdrawn since the applicants did not receive the Office Letter mailed March 26, 2003 that states that the drawings filed on September 5, 2000 are not acceptable for the reasons identified on the attached PTO-948. It should also be noted that the Notice of Allowability in fact did not require formal drawings.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the request can be granted. The applicant is correct in stating that the Notice of Allowability does not require formal drawings as stated in the Notice of Abandonment. It is clear that the Notice of Abandonment should have stated that the "application is abandoned in view of Applicant's failure to timely file a proper response to the Office letter mailed on March 26, 2003" - the incorrect box was checked on the Notice of Abandonment. The applicants have provided evidence that they did not receive the Office Letter mailed March 26, 2003. A review of the PAIR system that is accessible to Applicants does not indicate that any paper was mailed on this date.

The Petition is **GRANTED**.

The application will be returned to active status and a copy of the Office letter from March 26, 2003 will be mailed to the applicants. The new response period will be set for two months from the mailing date of the new notice. This time period will not be extendable. Failure to take corrective action within the set period will result in abandonment of the application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON CO 80435-5068

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:10052005

DATE : October 5, 2005

TO SPE OF : ART UNIT 2683

SUBJECT : Request for Certificate of Correction on Patent No.: 10-090496

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE: Bill Trost

Art Unit 2683

C of C

OIPE
AUG 3 1 2005
PATENT & TRADEMARK OFFICE

Docket No.: K-0213

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Cheol Kyun HEO and Seong Whan KIM

Serial No.: 09/655,403

Filed: September 5, 2000

Confirmation No.: 8206

Group Art Unit: 2683

Examiner: Stephen M. D'AGOSTA

Customer No.: 34610

For: METHOD FOR TRANSMITTING AND RECEIVING MESSAGE OF SHORT MESSAGE BROADCASTING SERVICES IN TELECOMMUNICATION SYSTEM

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate
SEP 0 2 2005
of Correction

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

Sir:

Applicants request the U.S. Patent and Trademark Office to issue a Certificate of Correction to fix claims 1, 13, 18 and 37 of Issued Patent No. 6,826,408 B1 to include minor changes which are of a clerical nature, a typographical nature and/or a mistake of minor character. No new matter is added and/or no reexamination is required.

It is believed that no fee is due. However, please credit or debit Deposit Account No. 16-0607 as necessary to effect entry of the attached corrections.

Respectfully submitted,
FLESHNER & KIM, LLP

Daniel Y. Kim
Registration No. 36,186

P.O. Box 221200
Chantilly, Virginia 20153-1200
703 766 3701 DYK/cah

Date: August 31, 2005

Please direct all correspondence to Customer Number 34610

SEP 0 6 2005

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,826,408 B2

DATED : November 30, 2004

INVENTOR(S) : Seong Whan Kim and Cheol Kyun Heo

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

Claim 1. A method for transmitting and receiving short message for broadcast services in a communication system comprising:

transmitting a broadcast indicator using a common control channel, the broadcast indicator indicating a transmission of a broadcast message on a paging channel or a broadcast channel, wherein the common control channel is a different channel from the paging channel or the broadcast channel;

receiving at the mobile station, the broadcast indicator through the common control channel and checking a status of the broadcast indicator; and

receiving, at the mobile station, the broadcast message through the paging channel or the broadcast channel during a broadcast cycle if the status of the broadcast indicator received through the common control channel indicates the transmission of the broadcast message on the paging channel or the broadcast channel.

Claim 13. A method for transmitting and receiving short message for broadcast services in a communication system comprising:

setting a field to an expanded system parameter message and transmitting said set field to a mobile station, wherein said field notifies whether a base station provides a broadcast indicator on a quick paging channel;

transmitting the broadcast indicator through the quick paging channel before transmitting a broadcast message on a paging channel or the broadcast channel to notify whether the base station is transmitting a broadcast message to a mobile station;

receiving and checking, at the mobile station, the status of the broadcast indicator on the quick paging channel, if said set field indicates that the base station provides the broadcast indicator on the quick paging channel; and

receiving, at the mobile station, the broadcast message from said base station when the status of the broadcast indicator on the quick paging channel indicates that said base station is transmitting a broadcast message on the paging channel or the broadcast channel, during a broadcast cycle.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,826,408 B2

No. of additional copies

Fleshner-Kim, LLP
P.O. Box 221200
Chantilly, Virginia 20153-1200

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

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

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,826,408 B2

DATED : November 30, 2004

INVENTOR(S) : Seong Whan Kim and Cheol Kyun Heo

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

Claim 18. A method for receiving a broadcast message, comprising:

receiving a broadcast indicator on a first common channel and checking a status of the broadcast indicator on the first common channel; and

receiving a broadcast message on a second common channel from a base station when the status of the broadcast indicator on the first common channel indicates that the base station is transmitting the broadcast message on the second common channel, wherein the broadcast message is received through the second common ~~control~~ channel during a broadcast cycle and wherein the first common channel is a quick paging channel and the second common ~~control~~ channel is a paging channel or a broadcast channel.

Claim 37. A method comprising:

receiving a broadcast indicator on a quick paging channel (QPCH);

if the broadcast indicator indicates existence of a broadcast message, then monitoring a common control channel for reception of the broadcast message, wherein the common control channel is a paging channel or a broadcast channel;

receiving an overhead message through ~~a~~ the common control channel before receiving the broadcast indicator on the QPCH; and

obtaining a first information and a second information in an overhead message, wherein the first information indicates a broadcast slot cycle index of transmitting the broadcast message and the second information indicates whether or not the at least one broadcast indicator is supported in the quick paging channel.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,826,408 B2
Page 2 of 2

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Fleshner-Kim, LLP
P.O. Box 221200
Chantilly, Virginia 20153-1200

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

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OFFICE OF PETITIONS

ELI M. NOAM
450 RIVERSIDE DRIVE #51
NEW YORK, NY 10027

In re Application of
Eli M. Noam
Application No. 09/655520
Filed: September 5, 2000

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

The instant petition lack(s) item(s) (1). The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final office action mailed on May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that prima facie places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Applicant did not formally file a proper RCE as stated in applicant's amendment of April 5, 2005. Therefore, Applicant filed no amendment prima facie placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. (See attached advisory action). Accordingly, the above identified application became abandoned on November 21, 2004 and a notice of abandonment was mailed out on January 4, 2005.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Gene Kim at (571) 272-6052 or the undersigned at (571)272-3217.

Karen Creasy for

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

Attachment: Advisory Action

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

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OCT 27 2006
OFFICE OF PETITIONS

Eli M Noam
450 Riverside Drive # 51
New York NY 10027

In re Application of	:
Noam	:
Application No. 09/655,520	: ON PETITION
Filed: September 5, 2000	:
For: GENERAL PACKET-BASED PAYMENT AND TRANSACTION METHOD AND SYSTEM	:

This is a decision on the renewed petition filed February 3, 2006, under 37 CFR 1.137(b) to revive the above-identified abandoned application.

The petition is **granted,** and this application is restored to pending status.

The second petition fee filed with the instant renewed petition was a fee paid in error, as the fee filed with the original petition under 37 CFR 1.137(b) covers renewed petitions thereunder as well. Accordingly, a refund (credit) of $750 will be credited to petitioner's credit card in due course.

This application is being referenced to the Technology Center to treat the RCE filed with the petition.

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

Brian Hearn
Petitions Examiner
Office of Petitions

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1 1990)
2000 GALLOPING HILL RD
KENILWORTH NJ 07033

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APR 19 2006
OFFICE OF PETITIONS

In re Application	:	
Briegs, et al.	:	
Application No. 09/655,667	:	DECISION ON APPLICATION
Filed: September 6, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. ID01065Q	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed February 27, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred fifty-four (854) days to nine hundred thirty-one (931) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. However, applicants' request that an additional PTO delay of seventy-two (72) days be assessed is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On November 25, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is eight hundred fifty-four (854) days. On February 27, 2006, applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is nine hundred thirty-one (931) days.

Applicants state that the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eight hundred fifty-four (854) days based on an adjustment for PTO delay of four hundred fifty-eight (458) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), twenty-nine (29) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(3), and four hundred thirty-five (435) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(b)(4), reduced by applicants' delays of two (2) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and sixty-six (66) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). All adjustments have been reviewed and found to be correct.

However, a review of the file reveals that applicants should have been assessed additional delay of four (4) days pursuant to 37 C.F.R. 1.704(b). The Office mailed a Notice to File Missing Parts on October 18, 2000. Applicants did not file a complete response until January 22, 2001. Accordingly, four (4) days of applicant delay should have been assessed.

In addition, a review of the file reveals that the Office should have been assessed fifty (50) days of delay pursuant to 35 U.S.C. 154(b)(1)(A)(iii) and 37 C.F.R. § 1.703(a)(5). A BPAI decision was mailed on June 6, 2005, reversing the examiner. The Office did not act until the mailing of a Notice of Allowance on November 25, 2005. Accordingly, fifty (50) days of PTO delay should have been assessed.

Lastly, applicants assert additional PTO delay of seventy-two (72) days for the failure on the part of the Office to issue the patent within three years of its filing. However, the Office does not assess whether or not any additional PTA is accorded in

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[1] Applicant filed the PTA together with payment of the issue fee. In addition, both filings were made timely by the fact that February 25th and February 26th fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a).

this instance until the issue date is established.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **nine hundred (900) days** (972 (50+435+29+458) days of PTO delay and 72 (66+2+4) days of applicant delay).

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

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

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

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

Enclosure: Copy of Revised PAIR Screen

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[2] 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).

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In re Patent No. 6638657
Issue Date: October 28,2003
Application No. 09655741
Filed: September 6,2000
Attorney Docket No. LYNN/0020.A

:

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

:

This is a decision on the electronic petition, filed December 7,2007 ,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 December 7,2007 . 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)
6,638,657	2003-10-28	09/655,741	2000-09-06	LYNN/0020.A

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 L. Streets/	Date (YYYY-MM-DD)	2007-12-07
Name	Jeffrey L. Streets	Registration Number	37453

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 18

MUIRHEAD AND SATURNELLI, LLC
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WESTBOROUGH MA 01581

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of

Shoji, et al.

Application No. 09/655,767

Filed: September 5, 2000

Attorney Docket No. FUM-03001

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 31, 2009.

The petition is **granted**.

This application was held abandoned December 19, 2002, after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 18, 2002. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 19, 2002. A Notice of Abandonment was mailed February 3, 2003. The instant petition was filed on August 31, 2009. Petitioner maintains that the USPTO erroneously changed the correspondence address of record to an address that was never associated with the subject application.

A review of the application file history reveals that two requests to change of correspondence address were filed on September 15, 2002, and placed in the subject application file notwithstanding the fact the requests cited applications numbers 10/178,332 and 09/834,986. The correspondence address for the subject application was changed to that of Brinkley, McNerney, Morgan, Solomon & Tatum, LLP even though there was no apparent authority to make a change to the correspondence address. The Notice of Allowance was improperly mailed to the offices of Brinkley, McNerney, Morgan, Solomon & Tatum, LLP. The evidence is convincing that petitioner did not receive the Notice of Allowance and Issue Fee Due because the USPTO incorrectly entered the aforementioned requests to change correspondence address. The petition is granted, accordingly.

The correspondence address has since been corrected in the USPTO records.

The application file is being forwarded to the Office of Data Management for further processing which will include re-mailing of the Notice of Allowance and Issue Fee Due and resetting of the period for reply thereto.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 18

Bernard H. Browne, Jr
240 Sand Key Estates Drive # 68
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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of
Bernard H. Browne, Jr.
Application No. 09/655,792
Filed: September 6, 2000
Title: INSTANT MUSICIAN, RECORDING ARTIST AND COMPOSER

DECISION DISMISSING PETITIONS

This is a decision on the petition filed August 12, 2002 to revive the above-identified application under either 37 CFR 1.137(a) or under 37 CFR 1.137(b).

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 4, 2001. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On January 15, 2002, applicant replied with an amendment. However, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed February 13, 2002). It is acknowledged that petitioner submitted the fee for a one-month extension of time on January 15, 2002. However, on May 3, 2002, applicant responded with another amendment, but did not further extend the period for reply. This amendment was not considered by the examiner because it was not timely filed. No proper reply having been timely received and no further extensions of time obtained, the application became abandoned effective February 5, 2002. A Notice of Abandonment was mailed on May 3, 2002.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. *Pro se* applicant Browne appears to be making the following arguments to show unavoidable delay:

1. Applicant believed the Advisory Action mailed February 13, 2002, which stated that the period for reply expires 3 months from the mailing date of the Final Rejection, set a new period for reply because it was mailed more than 3 months after the Final Rejection. Thus, petitioner thought the filing of their response on May 3, 2002 was timely (Para. 2.3.1-2.3.2);

2. An additional three months from the mailing date of the Advisory Action was needed to comply with the action, as the action required applicant to make the amendment mailed May 23, 2001 comply with the provisions of 37 CFR 1.121. This additional time is warranted as the amendment was mailed more than 3 months before the new patent rule became effective August 2001, and the amendment complied with the rules in effect when it was filed (Para. 2.3.3);

3. A telephone request for payment of a $55 extension fee from a USPTO employee on February 8, 2002, coupled with

receipt of the Advisory Action mailed February 13, 2002 about a week later, confirmed for applicant that the period for reply ran three (3) months from the mailing date of the Advisory Action (Para. 2.3.4);

4. Response times were shortened over previous years of such mailings due to extraordinary delays during this period caused by 9/11/01 attacks on the World Trade Center and Pentagon, anthrax contamination in mail stations and Christmas mailing loads (Para. 2.3.5).

STATUTES, RULES AND REGULATIONS

35 U.S.C. §133 provides that the Commissioner may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Commissioner to have been unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 CFR §1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). This burden includes establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable. Haines v. Quigg, 673 F.Supp. 314, 316-17, 5 U.S.P.Q.2d 1130, 1131-32 (N.D. Ind. 1987). 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute unavoidable delay. See Haines, 673 F. Supp. At 317, 5 U.S.P.Q.2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574

(D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). (Cf. In re Decision dated February 18, 1969, 162 U.S.P.Q. 383 (Comm'r Pat. 1969; interpretation of rule 7 was not unreasonable; hence, resultant delay in prosecution may be considered unavoidable). Furthermore, 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 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

One who cannot show unavoidable delay 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 under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

ANALYSIS

Petitioner has neither made an adequate showing of unavoidable delay nor submitted the required reply, within the meaning of § 1.137(a). The explanations set forth by petitioner for the delay in replying reflect a misunderstanding of the patent rules. The rules make clear that an advisory action cannot extend the period for reply to an outstanding final rejection. The period for reply to a final rejection is set by statute to extend for a maximum of six months. As a statutory requirement cannot be waived, in no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of a final rejection. See 35 USC 37 CFR 1.136(a); MPEP 706.07(f). Had applicant understood these rules, the telephone call from the USPTO would not have further confused him.

Furthermore, petitioner's misapplication of the rules is not reasonable given the clear language of the advisory action. Under the heading "PERIOD FOR REPLY," the advisory action stated that "the period for reply expires 3 months from the mailing date of the final rejection," not 3 months from the mailing date of the advisory action. Curiously, petitioner cites on petition this very language. This again reflects his lack of knowledge of the patent rules and his confusion regarding the distinction between a final rejection and an advisory action.

Petitioner is also inaccurate in his conclusion that 37 CFR 1.121 was effective August 2001. Rather, August 2001 was the month in which a revised edition of the MPEP was published. The revision to the rule was set forth in the Federal Register on September 8, 2000, and became effective November 7, 2000. [revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (i) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001]. Thus, an additional period for reply was not warranted. The amendment when filed should have been in compliance with 37 CFR 1.121.

Regarding his argument that the response time was shortened due to various extraordinary events, this argument is also not well taken. Of course, the Office is cognizant of the delays attributable to the events of September 11, 2001, as well as, those related to the anthrax contamination. The Office has set forth many new policies to account for these delays. Many of which were specifically directed to *pro se* applicants. However, petitioner has not shown that his delay is explained by these

extraordinary events. First of all, petitioner acknowledges as a cause of the delay his misunderstanding of the date of expiration of the response period. Secondly, petitioner does not establish a nexus between his delay and the extraordinary events of 2001. Petitioner does not show how these events caused a delay in filing a reply. Petitioner does not show that the October 4, 2001 Office action was received with less than a month remaining in the period for reply due to delays in mailing.

Petitioner's arguments and evidence have been considered, and it is concluded that petitioner has not met his burden of showing that the delay was unavoidable.

In addition, on petition, petitioner notes the amendment previously submitted May 3, 2002, as his reply under § 1.137(a)(3). A proper reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law), (2) an amendment that *prima facie* places the application in condition for allowance, (3) the filing of a continuing application, (4) a request for continuing examination under §1.114, or (5) if applicable, a §1.129(a) submission. The previously submitted amendment has been determined by the examiner not to place the application in condition for allowance.

Accordingly, it is concluded that a proper reply is still required to satisfy § 1.137(a).

Petitioner has also requested revival under § 1.137(b). The standard for showing that the delay was unintentional under § 1.137(b) is less exacting. Petitioner has included a statement of unintentional delay which satisfies this requirement. In addition, petitioner has paid the petition fee for consideration under § 1.137(b). As this utility application was filed after June 8, 1995, no terminal disclaimer is required. Nonetheless, the petition is not grantable under § 1.137(b). Revival under § 1.137(b) also requires submission of a proper reply to the final Office action, as described above. As petitioner has not submitted this reply, the petition under § 1.137(b) must also be dismissed.

CONCLUSION

The petition under § 1.137(a) is **DISMISSED**.

The petition under § 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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)," as appropriate. Extensions of time under § 1.136(a) are permitted. The time period set in this dismissal of **two months for reply** with extensions of time obtainable under §1.136(a) applies to requests for reconsideration filed under either §1.137(a) or §1.137(b). Regardless, petitioner should not delay filing a request for reconsideration as petitioner continues to bear the burden of establishing that the entire delay, including the delay from the due date for the reply until the filing of a grantable petition, was unavoidable or unintentional.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

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

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 20

BERNARD H BROWNE JR
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OFFICE OF PETITIONS

In re Application of
Bernard H. Browne
Application No. 09/655,792
Filed: September 6, 2000
Title: INSTANT MUSICIAN, RECORDING ARTIST AND COMPOSER

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed November 19, 2002 ("dated" November 15, 2002).

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

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed October 4, 2001, which set a shortened statutory period for reply of three months.[1] Petitioner filed an amendment on January 15, 2002, made timely by including a Certificate of Mailing dated December 24, 2002.[2] However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on February 13, 2002, informing petitioner that the amendment would not be entered because it failed to comply with 37 CFR 1.121. No further proper reply with an appropriate extension of time was

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[1] A **proper** reply to a **final** Office action consists of the filing of either an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal, a continuing application or a Request for Continued Examination (RCE).

[2] Correspondence filed with the USPTO is filed: 1) on the date it is **received** in the Office, or 2). the date the correspondence is deposited with the United States Postal Service via "Express Mail Service". See 37 CFR 1.6 and 37 CFR 1.10. Here, petitioner did not deposit the amendment via USPS Express Mail. However, petitioner included a Certificate of Mailing dated December 24, 2001 with his amendment (not to be confused with USPS "Certified Mail"). Accordingly, although the amendment was not "filed" until January 15, 2002 (the date of receipt), it is "considered as being timely filed" on December 24, 2001. See 37 CFR 1.8.

received. Petitioner could have filed a proper reply together with the maximum obtainable three month extension of time as late as April 4, 2002. However, petitioner did not file a proper reply with the appropriate extension of time. Accordingly, the above-identified application became abandoned on January 5, 2001. A Notice of Abandonment was mailed on May 23, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(a) and 37 CFR 1.137(b) on August 12, 2002. However, these petitions were dismissed in a decision mailed on October 3, 2002.

Consideration of petition under 1.137(a) (Unavoidable Delay):

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 does not satisfy requirement (3) or (1).

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."[3]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the MPEP, however, does not constitute "unavoidable" delay.[4]

The decision now turns to petitioner's arguments presented on renewed petition.

"Timely Response to Advisory Action (Item 8) Could Only Have Been Met By Turning Back Clocks Several Weeks"

Petitioner's argument does not reveal a proper understanding of the rules relating to extensions of time. The final Office action that was mailed on October 4, 2001 set a "shortened" statutory period for reply of three months. The final Office action also informed petitioner that extensions of time under 37 CFR 1.136(a) were available. However, the final Office action instructed petitioner that in "no event" could a reply be filed

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[3] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[4] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

after six months. Therefore, the last day petitioner could have filed a reply to the final Office action **without** an extension of time would have been January 4, 2002; the last day petitioner could have filed a reply to the final Office action **with** the maximum three month extension of time would have been April 4, 2002.

The Advisory Action mailed on February 13, 2002 did **not** set a new period for reply. Instead, it stated the period for reply expires three months from the mailing date of the final Office action (October 4, 2001). As did the final Office action, the Advisory Action reminded petitioner that extensions of time were available. Accordingly, after the Advisory Action was mailed, petitioner could have filed a response to the October 4, 2001 Office action as late as March 4, 2002 with a two month extension of time, or April 4, 2002 with a three month extension of time.

Petitioner did not timely file a proper response with an appropriate extension of time.

"Amended Application Was Filed 5/23/01, Not on 01/15/02"

Petitioner states that the amendment "mailed on 12/24/01 (item 6) responded properly to all of the items requested." Such statement does not reveal a proper understanding of the rules that relate to final rejections. 37 CFR 1.113 states that "reply to a final rejection or action must include **cancellation of**, or **appeal** from the rejection of, each rejected claim."[5] In other words, an amendment after final rejection is not the time for an applicant to make further arguments to the examiner. Rather, the applicant must place the application in condition for allowance by canceling the rejected claims, or file a Notice of Appeal (the filing of a continuation application or an RCE is also permissible practice). Here, applicant merely filed an amendment, without filing a Notice of Appeal, a continuation application, or an RCE. Accordingly, applicant assumed the risk that the examiner would determine that the amendment after final did not place the application in condition for allowance. As informed in the Advisory Action mailed February 13, 2002, this was indeed the case.

"Rule 37 CFR 1.121 Was Not in Effect When Application Was First Filed"

Petitioner states that he "was not aware of any new patent rules that came into effect after he filed his application." As stated above, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the MPEP does not constitute "unavoidable" delay.

"Advisory Action Very Untimely and Impossible to Meet Timing"

As stated above, petitioner still had time to file a response to the final Office action mailed October 4, 2001. Petitioner could have filed a response (an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, a

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[5] Emphasis added.

continuation application, or an RCE) as late as April 4, 2002 with a three month extension of time.

"Late Fee Request By USPTO Was in Error and Should Be Refunded"

Applicant's response to the final Office action was filed on January 15, 2002. However, the response contained a Certificate of Mailing dated December 24, 2002.[6] Accordingly, the response is "considered to be timely", even though it was not filed until January 15, 2002. Therefore, applicant is correct - no extension of time is needed. Applicant will be refunded the one month extension of time fee, or $55.

"Incorrect Statements by USPTO in Oct 3, 2002 "Decision Dismissing Petitions"

This decision will now address petitioner's contention that numerous "incorrect statements" were made in the October 3, 2002 dismissal.

"Petition Under 37 CFR 1.137(a) Unavoidable OR (b) Unintentional - Not Both"

Petitioner argues that he should not have been charged for both a petition under 37 CFR 1.137(a) and 37 CFR 1.137(b). Rather, the USPTO should have accepted the one which "was most appropriate to apply." **However, the Manual of Patent Examining Procedure states that petition fees are "required for the filing (and not merely the grant) of a petition under 37 CFR 1.137."**[7] Therefore, for the Office to even **consider** petitioner's argument under 37 CFR 1.137(a), the $55 fee was necessary. Likewise, for the Office to **consider** petitioner's argument under 37 CFR 1.137(b), the $640 petition fee was necessary.

"There was Not a Failure to File a Timely Reply to the Final Office Action"

Petitioner argues that the application did not become abandoned for failure to file a reply to the October 4, 2001 final Office action because he "mailed a 24 page response" on December 24, 2001. However, the issue is not whether petitioner timely file a response. The issue, and the reason the application became abandoned, is because petitioner did not file a **proper** response. As stated above, a proper response would have consisted of an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, a continuation application, or an RCE. Applicant's response was determined by the examiner not to *prima facie* place the application in condition for allowance.

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[6] The Certificate of Mailing was the language reading "I hereby certify that this correspondence is being deposited with the United States Postal Service as Priority Mail in an envelope mailed to U.S. Department of Commerce, Patent and Trademark Office, Assistant Commissioner for Patents, Stanley Witkowski, Primary Examiner, Washington DC 20231 on this date of December 24, 2001".

[7] MPEP 711.03(c)(III).

"Shortened Statutory Period for Reply Was Met by Inventor"

The Office does not dispute that petitioner filed a response on January 15, 2002, made timely by including a Certificate of Mailing dated December 24, 2001. As explained in the paragraph above, petitioner's response was not **proper**.

"Amendment Was Not Filed on January 15, 2002"

As explained in footnote 2 of this decision, correspondence filed with the USPTO is filed on either the date it is received in this Office, or the date it is deposited with the USPS via "Express Mail". However, if an applicant includes a timely "Certificate of Mailing" under 37 CFR 1.8, correspondence will be considered to be timely filed in the Office, even if it is not received until after a period set forth for reply.

"One Month Extension of Time Not Submitted on January 15, 2002 as Stated"

Petitioner is correct. The fee for the one month extension of time on January 15, 2002 was not necessary, since petitioner included a Certificate of Mailing dated December 24, 2001.

"Another Amendment Was Not Untimely Filed on May 3, 2002"

On May 3, 2002, petitioner filed another amendment. However, as this amendment was outside the maximum six month period for reply (only available with a three month extension of time, which petitioner did not obtain), the amendment was not timely and could not have been considered by the examiner, even if it was a proper response (the examiner has now indicated it was **not** a proper response).

"Application Was Not Abandoned Effective February 5, 2002"

The application in fact became abandoned on January 5, 2002, due to petitioner's failure to file a timely and **proper** reply to the October 4, 2001 final Office action.

"Notice of Abandonment Mailing Date Error"

Petitioner points out that the Notice of Abandonment was mailed on May 23, 2002, not May 3, 2002 as stated in the October 3, 2002 dismissal. Petitioner is correct.

"Petitioner Maintaining that the Delay Was Unavoidable Was Not Strictly Correct"

As stated above, for the USPTO to even **consider** petitioner's argument under 37 CFR 1.137(a) (unavoidable delay), the filing $55 petition fee was necessary. The USPTO next considered petitioner's argument under 37 CFR 1.137(b) (unintentional delay). To consider this, the filing of a $640 petition fee was necessary.

"Petitioner Logically Believed New Period Was Set For Final Response"

Petitioner states that "there was no other logical conclusion

that could have been made". If petitioner were familiar with the rules governing extensions of time (37 CFR 1.136(a)), petitioner would have reached the correct conclusion. In fact, the Advisory Action itself stated that extensions of time may be obtained.

"Advisory Action on New Rule Mailed Almost Nine Months After Amendment Filed"

Petitioner argues that there was no Advisory Action mailed for the amendment filed May 29, 2001 (mailed on May 23, 2001). It is not Office practice to mail Advisory Actions for amendments submitted in response to a **non-final** Office Action.

"Late Fee Requested by the USPTO When Nothing Was Late"

Petitioner is correct as stated above, and the $55 fee for the one month extension of time will be refunded.

"Absolute Proof on Mailing Delays"

Petitioner is correct - there was a delay from the day petitioner mailed his after-final amendment (December 24, 2001) and the day it was filed (received) in the Office (January 15, 2002). Regardless of the delay, petitioner's amendment was considered to be timely because it included a Certificate of Mailing dated December 24, 2001.

"Replies to All Outstanding Office Actions Were Filed"

Petitioner has provided a summary of actions in "Table 1", showing differences in dates in "actual mailing dates by the inventor and the dates erroneously stated by the USPTO." There is a difference between when correspondence by an applicant is **mailed** and when correspondence is **filed**, or received by the USPTO. The filing date is the date that correspondence is received in the Office, or the date the correspondence is deposited via USPS "Express Mail". Petitioner has not demonstrated that he filed any correspondence via USPS "Express Mail". Accordingly, petitioner's past correspondence was filed on the date of receipt.

"Petition Fee Set Forth in 37 CFR 1.17(l) Was Paid"

The decision on petition mailed October 3, 2002 never stated otherwise.

"Entire Delay Was Unavoidable"

The delay was not unavoidable. The abandonment could have been avoided by filing a Notice of Appeal together with the amendment filed on January 15, 2002, such that when the examiner did not enter the amendment, he would have entered the Notice of Appeal. Furthermore, after receiving the Advisory Action mailed February 13, 2002, the abandonment could have been avoided by filing a proper reply (Notice of Appeal, amendment *prima facie* placing the application in condition for allowance, continuation application, or an RCE) with an appropriate extension of time.

"Disclaimer and Fee Not Required"

Petitioner is correct - a terminal disclaimer is not required. The phrase "any terminal disclaimer" (as opposed to "a terminal disclaimer") was used to suggest that it only need be submitted if required. Accordingly, the fee submitted for a terminal disclaimer will be refunded to petitioner.

"Burden of Proof Upon Inventor"

As already set forth above, petitioner has still not met his burden of proof with regards to unavoidable delay.

"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"

With respect to reviving an application under 37 CFR 1.137(a) (unavoidable delay), a petitioner **must** show that he acted in such a manner that a prudent and careful man would act in relation to his most important business. Here, a prudent and careful man would have familiarized himself with the applicable laws and regulations concerning that business. It is immaterial that petitioner's business is writing and publishing, and not filing patents. Petitioner is **expected** to make his transactions with the USPTO his most important business if he desires to establish "unavoidable" delay.

"Unforeseen Fault Did Occur Making the Minor Delay Unavoidable"

Petitioner argues that the Advisory Action was mailed too late to permit a timely response. According to petitioner, a timely response would have "only been possible by reversing the clocks".

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. "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."[8]

Applicant may not rely upon late receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal.

Applicant should have ensured that the amendment **had** been entered (i.e. filed an amendment *prima facie* placing the application in

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[8] MPEP 711.03(c)(III)(C)(2).

condition for allowance) or applicant should have filed either an Request for Continued Examination (RCE), continuing application, or Notice of Appeal. **An applicant should not wait to take action until receipt of an advisory action which might not even be mailed until more than six months after the mailing of the final Office action.**

"Burden of Establishing That the Delay was "Unavoidable" Has Been Met"

As previously set forth in this decision, this burden has not been met.

"Delays Were Due to Delayed Advisory Actions, Timing Assessment Errors and Mailing Delays"

As previously set forth in this decision, the delay in this instance stemmed from applicant's failure to file a **proper** reply to the October 4, 2001 final Office action and from applicant's unfamiliarity with the rules governing extensions of time. If petitioner was incapable of filing an amendment that *prima facie* placed the application in condition for allowance, then petitioner should have filed a Notice of Appeal, continuing application, or an RCE.

"Timing Not Due to Oral Advice Nor Due to Failure to Advise in Timely Fashion"

The decision on petition dated October 3, 2002 stated that "the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action" is not grounds for petitioner to assert unavoidable delay. In other words, because the February 23, 2002 Advisory Action was not mailed within the three month shortened statutory period for reply (but still within the six month maximum period available by obtaining extensions of time), applicant can not argue that the delay was unavoidable. See the above discussion on this matter.

"Filed Were Petitions Pursuant to 37 CFR 1.137(a) **OR** 37 CFR 1.137(b)"

The Manual of Patent Examining Procedure states that petition fees are "required for the filing (and not merely the grant) of a petition under 37 CFR 1.137."[9] Therefore, for the Office to even **consider** petitioner's argument under 37 CFR 1.137(a), the $55 fee was necessary. Likewise, for the Office to **consider** petitioner's argument under 37 CFR 1.137(b), the $640 petition fee was necessary.

"Replies to All Outstanding Office Actions Were Filed"

A proper reply to a final Office action consists of an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal, a continuing application or an RCE. Applicant has not demonstrated that he filed these replies.

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[9] MPEP 711.03(c)(III).

"A $640.00 Fee for Reviving Patient [sic] Was Paid"

The Manual of Patent Examining Procedure states that petition fees are "required for the filing (and not merely the grant) of a petition under 37 CFR 1.137."[10] Therefore, for the Office to even **consider** petitioner's argument under 37 CFR 1.137(a), the $55 fee was necessary. Likewise, for the Office to **consider** petitioner's argument under 37 CFR 1.137(b), the $640 petition fee was necessary.

"Statement that Delay Was Unintentional Was Made As Well As Unavoidable"

The October 3, 2002 decision did not suggest that petitioner did **not** make this statement. The paragraph petitioner has quoted merely states all the requirements for a grantable petition under 37 CFR 1.137(b). In fact, page 4 of the decision states that "petitioner has included a statement of unintentional delay which satisfies this requirement."

"No Terminal Disclaimer is Required"

Petitioner is correct - a terminal disclaimer is not required. The phrase "any terminal disclaimer" (as opposed to "a terminal disclaimer") was used to suggest that it only need be submitted if required. Accordingly, the fee submitted for a terminal disclaimer will be refunded to petitioner.

"Showing of Unavoidable Delay Within Meaning of 1.137(a)"

Petitioner is incorrect, and is redirected to the above discussion for an explanation as to why.

"Advisory Action Was Mailed After Final Rejection Due Date and Almost Eight Months After A Major Amendment"

Applicant may not rely upon late receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal.

An applicant should not wait to take action until receipt of an advisory action which might not even be mailed until more than six months **after** the mailing of the final Office action.

"Period For Replying to Final Action Was Less Than Three Months"

As set forth above, petitioner is correct - petitioner timely responded to the October 4, 2001 Office action by filing an amendment on January 15, 2002 **with a Certificate of Mailing dated December 24, 2001.** Petitioner references a certified mail receipt. However, petitioner is reminded that it is not the certified mail receipt which made the amendment timely, but rather the Certificate of Mailing. The USPTO only recognizes Certificates of Mailing under 37 CFR 1.8, or USPS Express Mail

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[10] MPEP 711.03(c)(III).

under 37 CFR 1.10. No provision is made for USPS "Certified Mail".

"Telephone Call For Late Fee Was Confusing Because Our Reply Wasn't Late"

37 CFR 1.2 states that "[n]o attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." Rather, action will be based entirely on the written record.

"Going Backward in Time Was Not Possible"

Filing a response to the October 4, 2001 Office action with an extension of time **was** still possible when the Advisory Action was mailed on February 13, 2002.

"Distinction Between Final Rejection and an Advisory Action Was Very Clear"

See the above paragraph.

"Inventor Complied With Rules That Were in Effect at the Time the Patent Was Filed"

Petitioner states that "since the inventor is a former cold war systems engineer currently trying to provide an income by book authoring and publishing, there was no time or any known reason to keep abreast of patent rule changes...." Since petitioner admits he was incapable of keeping up to date in the patent law governing his application, petitioner had another option available to him - secure the services of a registered patent attorney or agent.

"Inventor and USPTO Caught Between Changing Rules Causing Delays"

It is petitioner's responsibility to keep himself abreast of the patent laws and regulations. While the PTO will attempt to assist applicants of changes, this is done as a **courtesy** only, and does not relieve petitioner of his responsibility.

"Delays Definitely Affected Timing and We Have Proof"

Petitioner states that the USPTO has claimed that the after-final amendment was "sent" on January 15, 2002. This is incorrect. The amendment was "filed" on January 15, 2002, and was "made timely" by including a Certificate of Mailing dated December 24, 2001. See the discussion above relating to 37 CFR 1.6, 37 CFR 1.8, and 37 CFR 1.10.

Petitioner stated that the Office has not set forth new policies to account for the delays attributable to the events such as September 11, 2001. Petitioner is mistaken. Petitioner is directed to the many Notices available at the USPTO homepage at http://www.uspto.gov/emergencyalerts/index_emergency.html as an example.

"Petitioner Had No Delays Associated With 2001 Events But USPTO Did"

Unless correspondence is deposited via USPS "Express Mail", it is "filed" on the date received in the Office. However, correspondence including a Certificate of Mailing will be considered as being timely filed. Here, petitioner did include a Certificate of Mailing dated December 24, 2001, so the after-final amendment was in fact timely filed.

"Burden of Showing Delay Was Unavoidable Was Met - Unless We Were Required to Turn Back the Clock"

As set forth above, filing a response to the October 4, 2001 Office action with an extension of time **was** still possible when the Advisory Action was mailed on February 13, 2002. Petitioner could have done so by obtaining the appropriate extension of time.

"Amendment Was Filed May 23, 2001, Not on May 3, 2002"

Office records indicate that petitioner filed amendments on May 29, 2001 (mailed May 23, 2001), January 15, 2002 (mailed December 24, 2001), and May 3, 2002 (dated May 3, 2002, and presumably mailed on that date, although no "Express Mail" label number could be found).

May 3, 2002 was beyond the maximum statutory period for reply of six months. The last day petitioner could have filed a response to the final Office action mailed October 4, 2001 would have been April 4, 2001. Accordingly, the May 3, 2002 reply was not even considered by the examiner because it was not timely filed.

"Proper Reply Satisfying 1.137(a) Was Made in Petition"

Upon filing his 37 CFR 1.137(a) and 37 CFR 1.137(b) petitions, petitioner indicated that he wished the previously filed May 3, 2002 petition to be his "reply". However, the examiner has now looked at the May 3, 2002 petition and has determined that it does **not** constitute a proper reply.

Accordingly, to revive the application, petitioner will need to submit a proper reply. **A proper reply at this point will consist of the filing of either a Notice of Appeal, an RCE, or a continuing application.**

"Petitioner Requested Revival Under One or Another - Not both (a) AND (b)"

The Manual of Patent Examining Procedure states that petition fees are "required for the filing (and not merely the grant) of a petition under 37 CFR 1.137."[11] Therefore, for the Office to even **consider** petitioner's argument under 37 CFR 1.137(a), the $55 fee was necessary. Likewise, for the Office to **consider** petitioner's argument under 37 CFR 1.137(b), the $640 petition fee was necessary.

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[11] MPEP 711.03(c)(III).

Furthermore, the petition under 37 CFR 1.137(b) was dismissed solely because petitioner failed to submit the proper reply on petition. A proper reply consists of an amendment which *prima facie* places the application in condition for allowance, a Notice of Appeal, a continuing application, or an RCE. The examiner determined that petitioner's last amendment or response, filed May 3, 2002, failed to place the application in condition for allowance.

"Petitioner Did Reply to the Final Office Action and All Other Officer [sic] Actions"

Petitioner is correct. Petitioner did file a timely reply to the October 4, 2001 Office action. However, petitioner did not timely file a **proper reply**. The reply, filed January 15, 2002 and made timely by petitioner's Certificate of Mailing dated December 24, 2001, was indicted by the examiner in the Advisory Action mailed February 13, 2002 to not be a proper reply. At that point, petitioner could have responded as late as April 4, 2002 by obtaining a three month extension of time. Petitioner did not file a proper reply by that date. Petitioner did file a response on May 3, 2002, **after** the maximum six month statutory period for reply had ended.

Conclusion:

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable. Petitioner is **strongly recommended** to obtain the desired relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. Petitioner previously filed a petition under 37 CFR 1.137(b) on August 12, 2002. With his petition, petitioner paid the petition fee and made a proper statement of unintentional delay. No terminal disclaimer was required. However, to revive the application under 37 CFR 1.137(b), petitioner must submit the required reply. A proper reply to a final Office action at this point consists of the filing of either a Notice of Appeal, a continuation application, or an RCE. Petitioner does not get an unlimited number of chances to keep filing amendments after a final rejection.

Petitioner's delay in promptly filing a Notice of Appeal under 37 CFR 1.191, continuation application, or an RCE under 37 CFR 1.114 may be considered as evidence of intentional delay and an absolute bar to revival.

While an applicant may prosecute the application, lack of skill in the field usually acts as a liability in affording the maximum protection for the invention disclosed. Petitioner is **strongly encouraged** to secure the services of a registered patent attorney or agent (i.e. registered to practice before the U.S. Patent and Trademark Office) to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution.

The $55 fee for the one month extension of time that was not needed to make the January 15, 2002 amendment timely, together with the $55 fee for the unnecesary Terminal Disclaimer submitted with the instant petition, will be refunded to petitioner under

separate cover.

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
Cliff Congo

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5/7/03

2 Serial/Patent # 09/655,792

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	7	1/15/02	$ 55.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
✓	Cert of Correction/Terminal Disc.	19	11/19/02	$ 55.00
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 110.00

8 TO BE REFUNDED BY:

✓ ~~Treasury Check~~ CC

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Petitioner did not need a 1 month extension to make his 1/15/02 amendment timely (he had a Certificate of Mailing). Also, a terminal disclaimer was not necessary w/ his petition

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Petitions Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 5/8/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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

FORM PTO 1577
(01/90)

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CLEARWATER FL 33767-2932

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JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Bernard H. Browne :
Application No. 09/655,792 : DECISION ON PETITION
Filed: September 6, 2000 :
Title: INSTANT MUSICIAN, RECORDING :
ARTIST AND COMPOSER

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed June 12, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 4, 2001. Petitioner filed an amendment on January 15, 2002, made timely by including a Certificate of Mailing dated December 24, 2001. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on February 13, 2002, informing petitioner that the amendment would not be entered because it failed to comply with 37 CFR 1.121. No further reply with an appropriate extension of time was received. Accordingly, the above-identified application became abandoned on January 5, 2002. A Notice of Abandonment was mailed on May 23, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(a) and 37 CFR 1.137(b) on August 12, 2002. However, these petitions were dismissed in a decision mailed on October 3, 2002. Petitioner filed a renewed petition under 37 CFR 1.137(a) on November 19, 2002. However, this renewed petition was dismissed in a decision mailed on May 8, 2003.

With the instant petition, petitioner filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of a previously filed amendment

(May 3, 2002). The petition fee was previously filed with the 37 CFR 1.137(b) petition on August 12, 2002. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

As the petition fee was previously submitted with the August 12, 2002 petition, the $650 fee submitted with the instant petition will be refunded to petitioner under separate cover.

The application file is being forwarded to Technology Center 2800 for consideration of the RCE, filed June 12, 2003.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/25/03

2 Serial/Patent # 09/655,792

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	21	6/12/03	$ 650.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 650.00

8 TO BE REFUNDED BY:

✓ Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

No fee for a renewed petition

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Petitions Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 6/26/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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

FORM PTO 1577
(01/90)

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)
6417609	2002-07-09	09655805	2000-09-05	MSCP0064USA

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	/WINSTON HSU/	Date (YYYY-MM-DD)	2007-04-12
Name	WINSTON HSU	Registration Number	41526

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. 6417609
Issue Date: July 9,2002
Application No. 09655805
Filed: September 5,2000
Attorney Docket No. MSCP0064USA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 08-04

MERCHANT & GOULD, P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Lanza et al.	:	
Application No. 09/655,815	:	ON PETITION
Filed: 6 September, 2000	:	
Atty Dkt P 0275705 23523-0162	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 17 May, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 14 May, 2004, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 13 February, 2004, which set a (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

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

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

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

The issue fee and petition fee will be charged to counsel's deposit account, No. 13-2725, as authorized in the present petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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 is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 10

MAR 27 2003

John G. Chupa
Chupa & Alberti, P.C.
Suite 205
31313 Northwestern Highway
Farmington Hills, MI 48334

In re Application of:	:	DECISION ON PETITION
LI, *et al.*	:	TO RESTART THE PERIOD
Application No. 09/655,893	:	FOR RESPONSE & WITHDRAWAL OF
Filed: September 06, 2000	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 198-0191/198-0696	:	

This is a decision on the petitions filed on May 10, 2002, to restart the period for response due to late receipt of the Office action mailed on September 07, 2001 and to withdraw the holding of abandonment in the above identified application, filed September 24, 2002.A petition fee is not required.

The petitions are **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on September 07, 2001. A Notice of Abandonment was mailed on June 05, 2002.

Petitioner asserts that the Office action mailed September 07, 2001, was not received at the correspondence address until April 12, 2002. In support of these assertions, petitioner provided a copy of the first page of the Office action received bearing a "received" date stamp of April 12, 2002, a copy of the envelope wherein the Office action was enclosed, and a copy of petitioners' docket record. The envelope shows a postage date of April 06, 2002, and the docket record shows a receipt date of April 12, 2002.

A grantable petition to restart the previously set period for reply, pursuant to M.P.E.P. § 710.06, should meet the following criteria:

(A) the petition is filed within two 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 one month of a two or three-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 (e.g., a copy of the Office action having the

date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), 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 of the Office action at the correspondence address.

The petition satisfies the above criteria. Accordingly, the petition to withdraw the holding of abandonment and the petition to reset the time period are granted.

In view of the above, the response to the Office action of September 07, 2001, submitted with the petition of September 24, 2002, is accepted as timely.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response received on September 24, 2002. From there, the application will be forwarded to the Examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 FIFTH AVE
SUITE 2800
SEATTLE WA 98101

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MAR 3 0 2005

OFFICE OF PETITIONS

In re	:
Currie, et al.	:
Application No. 09/655,906	: DECISION ON APPLICATION
Filed: September 6, 2000	: FOR PATENT TERM ADJUSTMENT
Patent No. 6,831,375	:
Issued: December 14, 2004	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. §1.705(d))," filed February 17, 2005,requesting correction of the patent term adjustment (PTA) indicated on the patent.[1]

The application for patent term adjustment 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 forty-eight (748)** days.

On December 14, 2004, the above-identified application matured into U.S. Patent No. 6,831,375. The patent issued with a Patent Term Adjustment of six hundred fifty-nine (659) days.

Patentees state that the patent is not subject to a terminal disclaimer.

---

[1] This application for patent term adjustment included a Certificate of Mailing dated February 14, 2005, making it timely.

The Office determined a patent term adjustment of six hundred fifty-nine (659) days based on an adjustment for PTO delay of six hundred eleven (611) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and one hundred thirty-seven (137) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by applicants' delays of eighty-nine (89), days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(10). The PTO delays of 611 and 137 days have been reviewed and found to be correct. The adjustment of 89 days is at issue.

The adjustment of eighty-nine (89) days for the filing of a Information Disclosure Statement (IDS) on March 25, 2004 has been found to be incorrect. A review of the IDS reveals that it contained a statement pursuant to 37 C.F.R. § 1.704(d). Accordingly, applicant delay with respect to this filing should have been zero (0) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred forty-eight (748)** days (748 (611 + 137) days of PTO delay, and no days of applicant delay).

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

The 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 **748** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction

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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ANDREW F. ABRAMSON
TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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APR 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Robert Tingley et al :
Application No. 09/655,954 :
Filed: September 6, 2000 :
Attorney Docket No. DPL-005-(6209/7)

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 the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 26 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Arthur I. Degenholtz
32 Vandelinda Avenue
Teaneck, NJ 07666

In re Application of
Louis Shamie
Application No. 09/655,962
Filed: September 5, 2000
For: HARDWARE SYSTEM FOR A CRIB

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 June 24, 2002.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to Arthur I. Degenholtz at the correspondence address of record on November 27, 2001. Since no response to the November 27, 2001Office action was filed, the application was held abandoned in the Notice of Abandonment mailed on June 4, 2002.

Applicant's petition attests to the fact that the applicant did not receive the Office action dated November 27, 2001, and has submitted sufficient evidence to support this claim.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to redate and remail the Office action based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Randolph Reese at (703) 308-2121.

John Love for

Gerald Goldberg, Director
Patent Technology Center 3600
Telephone No.: (703) 308-1134
Facsimile No.: (703) 308-2177

RR/dc: 7/24/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

David T. Banchik
BASF Corporation
3000 Continental Drive-North
Mount Olive, NJ 07828-1234

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SEP 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Sridhar Gopalkrishnan, et al. :
Application No. 09/655,972 :
Filed: September 5, 2000 :
Attorney Docket No. IN-10006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 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 December 20, 2000.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

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

Retta Williams

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

Frances Hicks

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

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Paper No. 12

David T. Banchik
BASF Corporation
3000 Continental Drive-North
Mount Olive, NJ 07828-1234

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Gopalkrishnan et al.
Application No. 09/655,972
Filed: September 5, 2000
Attorney Docket No. IN-10006

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 28, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 29, 2003. A Notice of Abandonment was mailed on September 8, 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 1700 for further examination on the merits.

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

Frances Hicks

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

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

Mailed: FEB 11 2002

Paper Number 10

In re application of
Louis F. Aprigliano et al.
Serial No. 09/656,017
Filed: September 7, 2000
For: METHOD OF PRODUCING CORROSION RESISTANT METAL ALLOYS WITH IMPROVED STRENGTH AND DUCTILITY

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 8, 2001.

On October 11, 2001, a first office action was mailed by the examiner, rejecting all of the elected claims present in the application (paper no. 4). Applicants responded to this office action with a response filed on October 17, 2001 (paper no. 5). A final rejection was then mailed November 8, 2001 (paper no. 6). A response was filed by applicants to the final rejection on November 15, 2001 (paper no. 7) and an advisory action was mailed by the office on December 5, 2001 (paper no. 8). Applicants also requested in the response after final that the finality of the November 8, 2001 be withdrawn because it was improper.

On December 13, 2001, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the November 8, 2001 office action.

Applicants position for the withdrawal of the finality is that the examiner did not fully address all of the limitations present in the claims. Accordingly, it is urged by petitioner that the final office action is incomplete.

DECISION

Section 706.07 of the MPEP states:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

In the first office action mailed (paper no. 4) the examiner rejected all claims under 35 USC 102 and/or 35 USC 103. In the response filed by applicants, amendments were made to all of the claims. For the most part, these amendments merely added previously claimed subject matter into the independent claims and rewrote limitations that were already present in the claims. However, a specific range limiting the components of the alloy was added to claim 2. Additionally, applicants argued several features of the claims including the limitation requiring the formation of an alloy containing high strength and ductility. In the examiner's final rejection, applicant's arguments were not specifically addressed. The examiner merely brushed aside applicant's arguments using case law stating that Applicant cannot argue combined references individually and that no impermissible hindsight was used to formulate the rejection. No mention was made of the high strength and ductility limitation and no mention was made of the limitations added to claim 2 requiring a specific alloy to be formed. The office action was therefore incomplete.

Because the record does not clearly point out and state the examiner's position on several issues raised by applicant, the finality of the office action is premature. This application is being forwarded to the examiner in order to prepare a new office action clearly stating the positions of the examiner regarding the amendment filed by applicant and the arguments set forth therein. Accordingly, the petition for withdrawal of finality is **GRANTED**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

JACOB SHUSTER
OFFICE OF COUNCIL CODE 004
NAVAL SURFACE WARFARE CENTER
CARDEROCK DIVISION HEADQUARTERS
DAVID TAYLOR MODEL BASIN
9500 MACARTHUR BOULEVARD
WEST BETHESDA, MD 20817-5700

UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED
STATES PATENT AND TRADEMARK OFFICE

WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: MAY 22 2002

Paper No.15

In re Application of	:	
Aprigliano et al.	:	DECISION
Serial No. 09/656,017	:	ON
Filed: September 7, 2000	:	PETITION
For: METHOD OF PRODUCING CORROSION RESISTANT METAL ALLOYS WITH IMPROVED STRENGTH AND DUCTILITY		

This is a decision on the petition filed April 4,2002, requesting the withdrawal of the finality of the Office action dated February 26, 2002, reopening of prosecution and entry of the proposed Rule 116 amendment filed March 7, 2002.

The petitioners argue that the examiner, in the Office action of February 26,2002, indicating the withdrawal of the finality of the previous Office action mailed November 8,2001, introduced an issue as to the scope of the claims reflected by the statement that `` the scope of the claim does not clearly describe from what strength the strength is increased and under what ductility the ductility is maintained''and the new Office action was again made final.

Subsequent to this final rejection, petitioners filed an amendment under Rule 116,proposing ``statements on data which explicitly indicates the extent to which the strength is increased and ductility is maintained''.

On March 27,2002, an advisory action was mailed denying entry of the proposed rule 116 amendment as raising a new issue requiring further consideration and/or search.

A review of the record indicates that while the examiner, in the February 26,2002 office action, commented as to why he did not consider the``increase in strength while maintaing ductility'' language to lend patentability to the claims, this, in fact, did not constitute a new ground of rejection. The purpose of the office action was to clarify the examiner's position relating to issues previously raised by the petitioners as directed by the petition decision of February 11,2002 and the examiner did so. The claims were stated to be rejected for the same reasons as in the previous office action and the rejection did not change. The final rejection was, therefore, proper and the examiner was justified in not entering the Rule 116 amendment of March 7,2002 as raising new issues requiring further search and/or consideration.

The petition is **DENIED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Jacob Shuster
Office of Counsel code 004
Naval Surface Warfare Center
9500 MacArthur Boulevard
West Bethesda, MD 20817-5700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 12 2008

McDermott Will & Emery
600 13th Street NW
Suite 1200
Washington DC 20005-3096

cc: Computer Patent Annuities Inc.
Suite 400
225 Reinekers Lane
Alexandria, VA 22314

In re 7.5 Year Maintenance Fee Payment in	: WAIVER OF
Patent No. RE 38152	: 37 CFR 1.26(b)
Payment Amount: $2220	:
Payment Date: March 10, 2004	: REFUND OF
Payor (Customer) No. 000197	: PAYMENT

This is a decision *sua sponte* waiving the requirement under 37 CFR 1.26(b) that any request for a refund be filed within two years from the date the fee was paid, and granting a refund of the above-identified payment. *See* 37 CFR 1.183.

RE 38152 is one of two reissue patents granted to replace original patent No. 5,517,132. The other reissue patent is RE 37475.

On October 27, 2003, Computer Patent Annuities, Inc. (CPA) filed in RE 37475 the $2090.00 maintenance fee payment due 7.5 years after the May 14, 1996 issue date of original patent No. 5,517,132.

On March 10, 2004, CPA filed the above-identified 7.5 year maintenance fee payment in RE 38152. The payment totaled $2220 because it included a $130 late payment surcharge in addition to the $2090 maintenance fee amount. The Office applied the $2220 payment to RE 38152 on March 15, 2004.

As explained in section 1415.01 of the *Manual of Patent Examining Procedure* (MPEP 1415.01), there is no provision in the patent laws for charging more than one maintenance fee for multiple reissue patents granted to replace a single original patent. In this case, both RE 37475 and RE 38152 were granted to replace original patent No. 5,517,132. Therefore the October 27, 2003 payment in RE 37475 was effective to maintain both RE 37475 and RE 38152 in force beyond 8 years after the May 14, 1996 issue date of original patent No. 5,517,132. Accordingly, there is no legal basis for the Office to accept the above-identified payment in RE 38152.

Because there is no legal basis for the Office to accept the above-identified payment, the 2-year requirement under 37 CFR 1.26(b) is waived in order to refund the payment.

Accordingly, the $2220.00 payment made on March 10, 2004 in RE 38152 will be refunded.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (571) 272-7725.

Robert A Clarke

Robert A. Clarke
Director, Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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AUG 23 2007

BINGHAM MCCUTCHEN LLP
3000 K STREET, NW
BOX IP
WASHINGTON, DC 20007

In re Application of	:
Barry N. Kreisworth et al	:
Serial No.: 09/656,084	: PETITION DECISION
Filed: September 6, 2000	:
Attorney Docket No.: 419124-0002	:

This is in response to the petition under 37 CFR 1.181, filed April 19, 2007, requesting restarting of a period for response based late receipt of an Office action. The delay in acting on this petition is regretted, but it was only recently brought to the undersigned's attention.

A review of the file history shows that the examiner mailed a Final Office action to applicants on February 5, 2007, setting a three month shortened statutory period for reply. Office records show that the Office action mailed February 5, 2007, was returned to the Office as undeliverable on February 12, 2007. Subsequently the Office action was remailed to applicants, but was not received until April 13, 2007. In view of the fact that more than two months of applicants shortened statutory period for reply had elapsed upon receipt, restarting of the period for reply is appropriate

The petition is **GRANTED**. **The shortened statutory period for reply set in the Office action mailed February 5, 2007, is reset to begin as of applicants' receipt date, April 13, 2007, and may be extended under 37 CFR 1.136(a), as appropriate.**

The application will be forwarded to the examiner for consideration of the amendment filed June 5, 2007. A Notice of Appeal was also filed August 6, 2007, with a required one month extension of time.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

Christopher Low
Director, Technology Center 1600 (Acting)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 28 2002

Paper No. 9

In re Application of:
Leonard J. Srnka.
Serial No.: 09/656,191
Filed: September 6, 2000
For: REMOTE RESERVOIR RESISTIVITY MAPPING

DECISION ON PETITION
UNDER 37 C.F.R. § 1.313(a)

This is a decision on the "PETITION FOR WITHDRAWAL FROM ISSUE-ISSUE FEE NOT PAID" filed June 25, 2002. Applicant requests that the above-referenced application be withdrawn from issue for consideration of prior art references listed in an information disclosure statement filed concurrently with the petition. As noted, the petition was filed prior to the payment of the Issue Fee. Thus, the petition is being treated under 37 C.F.R. § 1.313(a).

The petition is **DENIED**.

37 C.F.R. § 1.313(a) states in part:

> "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 is necessary."

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 C.F.R. § 1.17(h). The requisite petition fee has been charged to Deposit Account No. 5-1328.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. The mere submission of an information disclosure statement with the petition does not make withdrawal of the application from issue necessary. Applicant makes no allegation that any of the allowed claims are unpatentable and that the withdrawal of the application from issue is necessary to prevent issuance of a patent with an unpatentable claim, or claims. Lacking any allegation that one or more of the allowed claims are unpatentable, including any supporting evidence, withdrawal of the application from issue pursuant to 37 C.F.R. § 1.313(a) is not available. If applicant wishes the consideration of the information disclosure statement, a request for continued examination (RCE) under 37 C.F.R. § 1.114 is an available option.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 17

ABRAHAM HERSHKOVITZ
GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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FEB 06 2003

OFFICE OF PETITIONS

In re Application of :
Leonard J. Srnka :
Application No. 09/656,191 :
Filed: September 6, 2000 :
Attorney Docket No. 98.076 :

ON PETITION

This is a decision on the petition, filed February 6, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions for entry of the instant petition and decision into the file record, the file will be forwarded to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

McAndrews Held & Malloy
500 West Madison Street, Suite 3400
Chicago, IL 60661

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OCT 29 2002

OFFICE OF PETITIONS

In re Application of
Nelson et al.
Application No. 09/656,325
Filed: September 6, 2000
Attorney Docket No. 14073US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final rejection mailed October 30, 2001, which set a statutory period for reply of three-months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on January 31, 2002.

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

The application file is being forwarded to Technology Center AU 3641 for further processing.

Latrice Bond

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

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OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of :
Iwayama, et al. : DECISION ON PETITION
Application No. 09/656,418 :
Filed: September 6, 2000 :
Docket No.: 1405.1025 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 3, 2006.

This application was held abandoned November 27, 2005 for failure to timely submit corrected formal drawings as indicated in the Notice of Allowability mailed August 26, 2005. Notice of Abandonment was mailed January 20, 2006.

Petitioners assert inability to comply with the Notice of Allowability (Notice) stemming from the fact that the Notice was not accompanied by a statement setting forth the required corrections.

A review of the official application file reveals that the Notice of Allowability failed to set for the required drawing corrections.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Katsuaki Tajima	: DECISION ON REQUEST FOR
Patent Number	: 7656566	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/656,440	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1037** 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
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Paper No. Seven

David S Thompson
Symons Building #418
South 7 Howard
Spokane WA 99201

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Glen T. Poss et al.	:	
Application No. 09/656,470	:	
Filed: September 6, 2000	:	DECISION ON PETITION
Title: HEAD SET SPEAKER AND	:	UNDER 37 C.F.R. §1.181(A)
STEREO PLAYING DEVICE	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on December 1, 2003.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to submit drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 5, 2003, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings[1]. Accordingly, the above-identified application became abandoned on August 6, 2003. A Notice of Abandonment was mailed on October 2, 2003.

With the present petition, Petitioner has asserted that formal drawings were sent to the Office on August 4, 2003.

It appears that the response was not matched with the present file until after the mailing of the notice of abandonment. It is clear that this response was received, but was not matched with the correct application file. The papers were likely originally matched with the wrong file because Petitioner placed the wrong serial number on his submission - the cover sheet, entitled "notice to the official draftsperson" bears the serial

1 See MPEP §710.02(e).

number 09/766,929. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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

DO NOT SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 14

DATE : 112/05/07

TO SPE OF : ART UNIT 1800

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/656635 Patent No.: 6482217

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

Angela Green

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: Please enter all changes. Exr. Trinh

Darienne Menbleau — SPE

2893 — Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Cary W. Brooks
General Motors Corporation
Legal Staff
Mail Code 482-C23-B21
PO Box 300
Detroit, MI 48265-3000

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AUG 2 3 2001

OFFICE OF PETITIONS

In re Application of
Michael Douglas, et al.
Application No. 09/65,677
Filed: September 7, 2000
Attorney Docket No. 65229-0010

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed August 8, 2001, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts in a Nonprovisional Application" (the "Notice") mailed October 26, 2000. The Notice set forth a two month period for reply beginning from its mailing date. Extensions of time for reply were available pursuant to 37 CFR § 1.136(a). No response was received within the allowable period. Accordingly, this application became abandoned on December 27, 2000. The instant petition was filed before a Notice of Abandonment could be sent.

The Notice required an oath or declaration in compliance with 37 CFR 1.63 to be filed, and that a surcharge pursuant to 37 CFR 1.16(e) be remitted. Petitioner responded by filing a declaration that complies with 37 CFR 1.63 and remitting the required surcharge.

The Power of Attorney filed August 8, 2001, is noted and made of record.

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

K. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Rockwell Collins, Inc.
Intellectual Property Department
400 Collins Road, NE
M/S 124-323
Cedar Rapids, IA 52498

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Martin Pauly	:	
Application No. 09/656,685	:	ON PETITION
Filed: September 7, 2000	:	
Attorney Docket No. 99CR125/KE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 7, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee and substitute Oath/Declaration in a timely manner in reply to the Notice of Allowance mailed September 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight December 13, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,500 for the petition to revive fee and $1,400 for the issue fee. Petitioner also submitted a substitute Oath/Declaration. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

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

United States Patent and Trademark Office

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Paper No. 10

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW
Washington, DC 20037-1526

MAY 13 2003

In re Application of	)	
WU et al.	)	
Application No. 09/656,763	)	DECISION ON PETITION
Filed: September 7, 2000	)	
For: Apparatus for and Method of Implementing	)	
Time-Interleaved Architecture	)	

This is a decision on the petition, filed on August 5, 2002, to withdraw the holding of abandonment of the above-identified application. No fee is required for the petition.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of November 7, 2001. A Notice of Abandonment was mailed on July 2, 2002.

Petitioner states that the Office action of November 7, 2001 was never received by counsel and attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received.

An inspection of the application file reveals that the Office action of November 7, 2001 was returned to the Patent and Trademark Office but not remailed in accordance with MPEP 707.13.

In view of the fact that the Office action of November 7, 2001 was not remailed, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to technical support staff for Technology Center 2800 for remailing of the Office action of November 7, 2001. The period for response will be restarted along with the remailing of the Office action.

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

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DIW Aug-07

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Kuyama et al.	:	DECISION ON PETITION
Application Number: 09/656777	:	TO WITHDRAW HOLDING OF
Filing Date: 09/07/2000	:	ABANDONMENT
Attorney Docket Number:	:	
09793822-0409	:	

This is a decision on the petition, filed on 3 July, 2007, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on 30 October, 2006. Notice of Abandonment was mailed on 4 June, 2007.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment to the non-final Office action. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of the amendment and petition for extension of time in the United States Patent and Trademark Office (Office) on 4 May, 2007. Additionally, petitioners have submitted a copy of the response with the present petition.

The original fee payment for a three (3) month extension of time filed on 4 May, 2007, has been located in the Office.

Petitioners' response to the non-final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the restriction requirement was received in the Office but was not matched with the application file.

The date-stamped on the post card of 4 May, 2007, is after the due date for the response. However, under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The transmittal letter entitled "AMENDMENT IN RESPONSE TO OFFICE ACTION OF 10/30/2006" filed with the present petition bears a proper certificate of mailing, dated 30 April, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

It is noted that a three (3) month extension of time is required to make the response filed on 30 April, 2007, a timely response to the Office action mailed on 30 October, 2006.

The additional two (2) month time extension filed with the present petition is unnecessary and will be credited to counsel's deposit account.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

April 2, 2003

David S. Resnick
Nixon Peabody
101 Federal St.
Boston, MA 02110

In re application of:
Larry I. Benowitz
Serial No.: 09/656,915
Filed: September 7, 2000
For: METHODS AND CONPOSITIONS FOR MODULATING AXONAL OUTGROWTH OF CENTRAL NERVOUS SYSTEM NEURONS

DECISION ON PETITION

This is a decision on the petitions received by fax on October 4, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed April 5, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned June 6, 2001. The notice of abandonment was mailed September 9, 2002.

On January 17, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on January 16, 2002 with 5 months of extensions.

The evidence submitted is sufficient to establish that the petitioners also responded to the notice mailed February 26, 2002 on May 29, 2002.

The petition is hereby Granted.

The application has been completed for release to Technology Center 1614.

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

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

Doshie 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

ATTN: OLEG F. KAPLUN
FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeremy S. DeBonet et al	:	
Application No. 09/656,950	:	ON PETITION
Filed: September 7, 2000	:	
Attorney Docket No. 11291.00012/GST	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 17, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 18, 2004.

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

This matter is being referred to Technology Center AU 2154 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MAIL

NOV 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

William S. Frommer
Frommer, Lawrence & Haug
745 Fifth Avenue – 10th Fl.
New York, NY 10151

In re Application of: Zhou	)	
Application No. 09/656,969	)	**DECISION ON PETITION TO**
Attorney Docket No. 450110-02767	)	**REMAIL OFFFICE ACTION AND**
Filed: September 7, 2000	)	**RESTART PERIOD FOR REPLY**
For: DISTRIBUTED SERVICE PROVIDER	)	***UNDER 37 CFR §1.181***
	)	

This is a decision on the petition, filed October 18, 2004, requesting remailing of the final Office action of May 5, 2004 and restarting of the period for reply in the above-identified application, under 37 CFR §1.181.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received. According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

Petitioner's should adhere to language noted above. In support of the petition, applicants' representative provides a statement that the final Office action was not received and that a search of the file jacket and document records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to redate and remail the final Office action (originally mailed May 5, 2004) to the applicant. The three-month shortened statutory period to begin with the remailing of the action.

11/3/04

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6819049
Issue Date: November 16,2004
Application No. 09656987
Filed: September 7,2000
Attorney Docket No. PHN 17, 631

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6819049	2004-11-16	09656987	2000-09-07	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 10

MAILED

AUG 2 4 2004

Technology Center 2100

Rudolf O. Siegesmund
Suite 2000
4627 N. Central Expressway
Dallas, TX 75205-4017

In re Application of:
Anthony E. Martinez et al.
Application No. 09/657,116
Filed: September 7, 2000
For: SPOTLIGHT CURSOR

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

This is a decision on the petition filed 08 January 2004 under 37 CFR §1.181 to accept as timely the amendment filed 21 August 2003 in the above-identified application.

A non-final rejection (paper no. 7) was mailed on 05 June 2003.

In support of the petition, Petitioner provides a copy of (1) an amendment, (2) a "transmission report" showing 8 pages transmitted, and (3) an "auto-reply facsimile transmission" from the United States Patent and Trademark Office showing receipt of an 8 page transmission, transmitted 21 August 2003.

The "auto-reply facsimile transmission" from the United States Patent and Trademark Office for the response filed 21 August 2003 establishes that a response to the Office action of 05 June 2003 was filed on 21 August 2003. Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for entry of the amendment and the information disclosure statement received 08 April 2004. After processing, the application will then be forwarded to the Examiner for appropriate action.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Oct-06

SCOTT A. MOSKOWITZ
16711 COLLINS AVENUE #2505
MIAMI FL 33160

COPY MAILED
OCT 27 2006
OFFICE OF PETITIONS

In re Application of :
Moskowitz et al. :
Application No. 09/657,181 : ON PETITION
Filed: 7 September, 2000 :
Attorney Docket No. 066112.0132 :

This is in response to the "PETITION TO THE DIRECTOR TO WITHDRAW ABANDONMENT UNDER CF 1.181" filed on 30 December, 2005.

The petition is **DISMISSED.**

The application became abandoned on 16 April, 2005, for failure to timely respond to the Office letter mailed on 15 March, 2005, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 5 December, 2005.

Petitioner states that "I am requesting the Commsioner to withdraw the Notice of Abandonment based on the facts that I had provided a substantive response in a timely manner and I had made every effort to comply with the express instructions of the Examiner who attempted to assist me responding to the Office action."

Petitioner's argument has been carefully considered, but is not persuasive.

In this regard, 37 CFR 1.135 states:

> (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 Office communication mailed on 15 March, 2005, set a one (1) month shortened period for reply. Petitioners, however, failed to

timely respond to the Office action. As such, the application became abandoned for failure to timely respond to the outstanding Office action.

With regard to petitioner's assertion that the examiner stated that no further action was required, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, 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). Additionally, 37 CFR 1.2 states that the action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Furthermore, the examiner stated in the Notice of Abandonment, the paper filed on 22 November, 2004, was not a proper filing because it was signed by only one inventor. Additionally, although the petition is signed by inventor Scott Moskowitz as President of assignee Blue Spike, Inc., the paper filed on 22 November, 2004, was not signed on behalf of the assignee, and is therefore not a proper filing.[1]

As such, the showing of record is that the abandonment resulted from the failure of petitioners to respond to the Office communication mailed on 15 March, 2005, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

Petitioner may wish to consider filing a petition to revive the application, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[2]

The petition is **DISMISSED.**

---

[1] See MPEP 324(A).

[2] 37 CFR 1.181(f).

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
PTO/SB/96

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/96 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

Entitled:

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

states that it is:

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

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

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

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

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

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

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

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

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

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

SCOTT A. MOSKOWITZ
16711 COLLINS AVENUE #2505
MIAMI FL 33160

COPY MAILED

MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Moskowitz et al.	:	
Application No. 09/657,181	:	DECISION ON PETITION
Filed: 7 September, 2000	:	
Attorney Docket No. 066112.0132	:	

This is a decision on the petition filed on 28 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 April, 2005, for failure to timely respond to the Office letter mailed on 15 March, 2005, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 5 December, 2005. On 30 December, 2005, a petition to withdraw the holding of abandonment was filed. On 27 October, 2006, the petition was dismissed.

---

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

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

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

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

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

Petitioner has filed a Statement Under 37 CFR 3.73(b), stating that inventor Scott A. Moskowitz is authorized to sign on behalf of the assignee, Blue Spike, Inc.

An amendment, signed on behalf of the assignee, has been filed as the required reply.

The application is being referred to Technology Center Art Unit 2857 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

#3

OIPE JC64
FEB 0 5 2001
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 Box Missing Parts, Assistant Commissioner for Patents, Washington, DC 20231.

January 31, 2001
Date

Judith A. Breaks

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Jiangchun Xu et al.
Application No.	:	09/657,279
Filed	:	September 6, 2000
For	:	COMPOSITIONS AND METHODS FOR THE THERAPY AND DIAGNOSIS OF PROSTATE CANCER

Art Unit	:	not assigned
Docket No.	:	210121.427C19
Date	:	January 31, 2001

Box Missing Parts
Assistant Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Assistant Commissioner for Patents:

In response to the Notice to File Missing Parts dated October 12, 2000, please find enclosed the following documents in the above-referenced application:

Declaration;
Election and Power of Attorney (with copy of Assignment);
Copy of Formalities Letter;
General Authorization Under 37 C.F.R. § 1.136(a)(3); and
Preliminary Amendment
Petition for an Extension of Time

The fees have been calculated below:

Basic Fee	$	710
Missing Parts Surcharge		130
Total	$	840
Extension-of-Time Fee		390
TOTAL	$	1,230

OIPE JC64
FEB 0 5 2001
PATENT & TRADEMARK OFFICE

Enclosed are Form PTO/SB/17 and a check in the amount of $1,230 for the requisite fees. The Assistant Commissioner is hereby authorized to charge any additional filing fees or to credit any overpayment to Deposit Account No. 19-1090. A duplicate copy of this response is enclosed.

Respectfully submitted,
Seed Intellectual Property Law Group PLLC

Jane E. R. Potter
Registration No. 33,332

JEP:jab

Enclosures:
- Postcard
- Check
- Form PTO/SB/17 (+ copy)
- Copy of this Response
- Declaration
- Election and Power of Attorney (with copy of Assignment)
- Copy of Formalities Letter
- General Authorization Under 37 C.F.R. § 1.136(a)(3)
- Preliminary Amendment
- Petition for an Extension of Time (+ 2 copies)

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

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#3

OIPE JC64
FEB 0 5 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
09/657,279	09/06/2000	Jiangchun Xu	210121.427CIP

James E R Potter
Seed Intellectual Property law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-7092

FORMALITIES LETTER

OC000000005490098

Date Mailed: 10/20/2000

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).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- 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 $ 820.**

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

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

PART 3 - OFFICE COPY

02/08/2001 RHARIS1 00000100 09657279
01 FC:101 710.00 OP
02 FC:105 130.00 OP

Sector 8 PTO/SB/17 (12/99)

FEE TRANSMITTAL for FY 2000

Patent fees are subject to annual revision.
Small Entity payments must be supported by a small entity statement, otherwise large entity fees must be paid.

OIPE FEB 0 5 2001 PATENT & TRADEMARK OFFICE

TOTAL AMOUNT OF PAYMENT	($)1,230

Complete if Known	
Application Number	09/657,279
Filing Date	September 6, 2000
First Named Inventor	Jiangchun Xu et al.
Examiner Name	Not assigned
Group / Art Unit	Not assigned
Attorney Docket No.	210121.427C19

#3

METHOD OF PAYMENT (check one)

1. [ ] The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 19-1090

Deposit Account Name: Seed Intellectual Property Law Group PLLC

[X] Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

2. [X] Payment Enclosed:

[X] Check [ ] Money Order [ ] Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Code	Large Entity $	X Small Entity Code	X Small Entity $	Fee Description	Fee Paid
101	690	201	355	Utility Filing Fee	710
106	310	206	155	Design Filing Fee	
107	480	207	240	Plant Filing Fee	
108	690	208	345	Reissue Filing Fee	
114	150	214	75	Provisional Filing Fee	

SUBTOTAL (1) 355 ($)710

2. EXTRA CLAIM FEES

			Extra Claims X	Fee from below =	Fee Paid
Claims		-20			
Ind. Clms		-3			
Multiple Dependent Claims					

Large Entity Code	Large Entity $	Small Entity Code	Small Entity $	Fee Description
103	18	203	9	Claims in excess of 20
102	78	202	39	Indep. claims in excess of 3
104	260	204	130	Multiple dependent claim
109	78	209	39	Reissue indep. claims over original patent
110	18	210	9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 710

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Code	Large Entity $	Small Entity Code	Small Entity $	Fee Description	Fee Paid
105	130	205	65	Surchrg – late filing fee or oath	130
127	50	227	25	Surcharge – late provisional filing fee or cover sheet	
147	2520	147	2520	Filing a request for reexamination	
112	920*	112	920*	Request publication of SIR prior to Examiner action	
113	1840*	113	1840*	Request publication of SIR prior to Examiner action	
115	110	215	55	Extension for reply within first month	390
116	380	216	190	Extension for reply within second month	
117	870	217	435	Extension for reply within third month	
118	1360	218	680	Extension for reply within fourth month	
128	1850	228	925	Extension for reply within fifth month	
119	300	219	150	Notice of Appeal	
120	300	220	150	Filing a brief in support of appeal	
121	260	221	130	Request for oral hearing	
138	1510	138	1510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive: unavoidable	
141	1210	241	605	Petition to revive: unintentional	
142	1210	242	605	Utility issue fee (or reissue)	
143	430	243	215	Design issue fee	
144	580	244	290	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	240	126	240	Submission of Information Disclosure Statement	
581	40	581	40	Recording each patent assignment per property	
146	690	246	345	Filing a submission after final rejection (37 CFR § 1.129(a))	
Other fee (specify)					
Other fee (specify)					

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 520

SUBMITTED BY:				Complete (if applicable)	
Name	Jane E. R. Potter	Registration No.	33,332	Telephone	(206) 622-4900
Signature	Jane E R Potter			Date	January 31, 2001

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC64
FEB 0 5 2001
PATENT & TRADEMARK OFFICE

Applicants	:	Jiangchun Xu et al.
Application No.	:	09/657,279
Filed	:	September 6, 2000
For	:	COMPOSITIONS AND METHODS FOR THE THERAPY AND DIAGNOSIS OF PROSTATE CANCER

Art Unit	:	not assigned
Docket No.	:	210121.427C19
Date	:	January 31, 2001

Box Missing Parts
Assistant Commissioner for Patents
Washington, DC 20231

GENERAL AUTHORIZATION UNDER 37 C.F.R. § 1.136(a)(3)

Assistant Commissioner for Patents:

With respect to the above-identified application, the Assistant Commissioner is authorized to treat any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. § 1.136(a)(3) for its timely submission as incorporating a petition therefor for the appropriate length of time. The Assistant Commissioner is also authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-1090.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC

Jane E. R. Potter
Registration No. 33,332

JERP:jab

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031
L:\210121 - Corixa\427c19\Forms\427C19-Gen Auth.doc

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : December 14, 2006

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 6894146

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:

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

1634

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,894,146
DATED : May 17, 2005
INVENTORS : Jiangchun Xu et al.

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

Title Page
Item (63) Related U.S. Application Data, omit the following:
"which is a continuation-in-part of application
No. 08/904,804, filed on August 1, 1997, now abandoned, which is a continuation-in-part of application No. 08/806,099, filed February 25, 1997, now abandoned."

Item (56) Other Publications, "λ ZAP: a bacteriophage λ expression vector with *in vivo* excision properties," *Nucleic Acids Research* 16(15):7583-7600, 1998" should read as -- λ ZAP: a bacteriophage λ expression vector with *in vivo* excision properties," *Nucleic Acids Research* 16(15):7583-7600, 1988--

MAILING ADDRESS OF SENDER:

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 6300
Seattle, Washington 98104

PATENT NO. 6,894,146

No. of additional copies

0

Burden hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

NOV 2 4 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Kevin P Francis	: DECISION ON REQUEST FOR
Patent Number	: 6737245	: RECALCULATION of PATENT
Issue Date	: 05/18/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/657,289	: OF WYETH
Filed	: 09/07/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 7

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

JUN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Haseeb Akhtar, et al.
Application No. 09/657,351
Filed: September 7, 2000
For: **INTERNET PROTOCOL MOBILITY ARCHITECTURE FRAMEWORK**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment filed March 29, 2004, pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

This application became abandonment for failure to timely file a response to the Notice of Missing Parts mailed November 3, 2000, which set a period of TWO MONTHS to reply. That period lapsed without reply, rendering this application abandoned as of January 3, 2001. A Notice of Abandonment was mailed on March 10, 2004.

Petitioner alleges to have timely filed a response to the Notice of Missing Parts on December 20, 2000. To support this position, Petitioner has included with the instant petition, a copy of a return post card date stamped as received by the PTO on December 27, 2000 and which lists the filing of a signed Declaration and Power of Attorney, an assignment for recordation, and a check in the amount of $170.00 ($130.00 for the filing fee and $40.00 for the recordation fee). The subject petition also included copies of each of the items listed on the return post card.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

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

The application file is being forwarded to the Technology Center's technical support staff for entry of the copy of the response submitted with the petition. From there, the application file will be forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. BLUMENTHAL
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

MAY 1 2 2006

OFFICE OF PETITIONS

In re Patent No. 6,978,251	:	
Applicant WATANABE	:	DECISION ON REQUEST
Application No. 09/657,360	:	FOR RECONSIDERATION OF
Filed: September 7, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 040447/0225	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed December 9, 2005. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 227 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one (1)** day.

On December 9, 2005, patentee submitted the instant comment. On December 20, 2005, the above-identified application matured into U.S. Patent No. 6,978,251, with a revised patent term adjustment of 227 days. Patentee states no basis for the request for review of the patent term adjustment. Nonetheless, a review of the application history confirms that an incorrect number of days were determined for USPTO delay and applicant delay.

There were no grounds for entry of a period of adjustment for USPTO delay of the mailing of the notice of allowance. The entry of a period of adjustment of 135 days was entered in error. Specifically, a period of adjustment of 135 days was entered for Office delay in taking action in response to applicant's amendment after final rejection filed October 21, 2004. However, this reply was not in compliance with §1.113(c), and therefore should not have been taken into account for the period of adjustment. A second reply to the Office's final rejection, an amendment after Notice of Appeal, was filed on May 4, 2005 and construed as a proper reply under § 1.113(c). This second reply did not result in any period of adjustment because the number of days from the date of the reply of May 4, 2005 until the mailing of the notice of allowance under 35 U.S.C. 151 was within 4 months. Accordingly, the entry of 135 days has been changed to zero days for USPTO delay.

The PTA calculations failed to adjust for the notice of appeal filed on February 4, 2005. The entry of zero days was in error. Specifically, the notice of appeal was applicant's reply to a final office action mailed August 5, 2004. Therefore, a period of adjustment for applicant delay in taking action in excess of three months to reply to an office action resulted in a period of adjustment of 91 days. Accordingly, an entry of 91 days for a period of adjustment was entered for Applicant delay.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one (1) day (246 days for PTO delay and 245 days for Applicant delay).

It is noted that this patent is subject to a terminal disclaimer.

As this letter was submitted as an advisement to 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.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE (1)** day.

Telephone inquiries specific to this matter should be directed to Amelia Au, at (571) 272-7414.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction
Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,978,251 B1

DATED : December 20, 2005

INVENTOR(S) : Watanabe

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 (227) days

Delete the phrase "by 227" and insert – by 1 day--

OIPE JC95
SEP 16 2004
PATENT & TRADEMARK OFFICE

S/N 09/657,402 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Weimin Sun et al.	Examiner:	Mark Bockelman
Serial No.:	09/657,402	Group Art Unit:	3762
Filed:	September 8, 2000	Docket No.:	279.222US1

Title SELF-CALIBRATING RATE-ADAPTIVE PACEMAKER

REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE

Commissioner for Patents
ATTN: MAIL STOP ISSUE FEE
P.O. Box 1450
Alexandria, VA 22313-1450

An issue fee for the above-identified application was previously paid on March 23, 2004. A petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee was previously filed on May 5, 2004. Applicant received a decision, dated May 6, 2004, granting the petition to withdraw.

Applicant respectfully requests that the above-identified previously-paid issue fee be applied towards the fee required by the new Notice of Allowance dated June 14, 2004.

Please charge any additional required fees for the Issued Fee Payment or credit overpayment to Deposit Account No. 19-0743.

This request is being submitted with the new Issue Fee Transmittal Form PTOL-85, along with a copy of the above-identified decision granting the petition to withdraw.

Respectfully submitted,

By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-~~6965~~ (6912)

Date Sep. 10, 2004

By
Timothy E. Bianchi
Reg. No. 39,610
TEB:CMG:lmp

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, Attn – MAIL STOP ISSUE FEE, P.O.Box 1450, Alexandria, VA 22313-1450, on this 13 day of September, 2004.

LISA POSORSKE
Name

Signature

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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OIPE JC95 SEP 16 2004 PATENT & TRADEMARK OFFICE

Paper No. ____

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

COPY MAILED

MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of
Weimin Sun et al
Application No. 09/657,402
Filed: September 8, 2000
(CPI) Attorney Docket No. 279.222US1

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

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 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

PORTFOLIO I.P.
MAY 1 0 2004
RECEIVED

[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).

DOPT

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 30

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

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Hiroshi Shinriki et al :
Application No. 09/657,627 : ON PETITION
Filed: September 8, 2000 :
Attorney Docket No. 08137.0004 :

This is a decision on the petition, filed via fax on November 12, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1762 for processing of the request for continued examination under 37 CFR 1.114.

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

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

Paper No. 31

Date : November 26, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hiroshi Shinriki et al
Application No. : 09/657,627
Filed : September 8, 2000

The above-identified application has been assigned Patent No. 6,656,521 and an issue date of December 2, 2003.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 2, 2003:

> "All reference to Patent No. 6,656,521 to Hiroshi Shinriki et al of Chiba, JAPAN for METHOD OF FORMING A THIN FILM appearing in the Official Gazette of December 2, 2003 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, Crystal Park 3-910

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

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JAN 17 2007

OFFICE OF PETITIONS

In re Patent No. 6,849,777	:	
Issued: February 1, 2005	:	
Application No. 09/657,631	:	NOTICE
Filed: September 6, 2000	:	
Patentee: Marilynn E. Etzler, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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meb

Mailed: 10-5-07

In re application of	:	
Edlein et al.	:	DECISION ON
Serial No. 09/657,679	:	PETITION
Filed: September 8, 2000	:	
For: PRINTED ANTIFOG FILM		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, dated September 4, 2007.

On December 6, 2006, a non-final Office action was mailed to applicants. The Office action contained rejections of claims 1-106 under 35 USC 103. A reply to the Office action was filed on May 10, 2007. In the reply, no amendments to claims 1-106 were made, however claims 107-112 were added and claim 74 was canceled.

On August 10, 2007, a final Office action was mailed. Among the rejections was a new grounds of rejection of claims 107-112 under 35 USC 103. The examiner stated in the office action that the new grounds of rejection were necessitated by Applicant's amendments to the claims and the Office action was made final.

Petitioner has argued that the finality of the last Office action is improper. Petitioner argues that the new grounds of rejection were not necessitated by Applicant's amendments.

DECISION

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Upon review of the prosecution history, the examiner's position is correct. On page 2 of the Final Office action of August 10, 2007, it is clearly stated that all of the rejections under 35 USC 103 in the previous office action of December 6, 2006 are repeated for the reasons of record.

Furthermore, the examiner goes on to present a new grounds of rejection in the Final Office action, rejecting the newly added claims of 107-112 under 35 USC 103. The examiner did not present any new grounds of rejection over any claim that was not previously presented. The only new grounds of rejection was for claims 107-112, which were newly added in the applicant's reply of May 10, 2007. Therefore, the applicant's amendments did indeed necessitate the new grounds of rejection of claims 107-112. Accordingly, the examiner properly made the August 10, 2007 Office action final.

The Petition is **DENIED**.

Applicant's time for response to the August 10, 2007 office action continues to run as set forth in the office action.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Daniel B. Ruble
Sealed Air Corporation
P.O. Box 464
Duncan, SC 29334

OIPE JC46
APR 1 1 2003
PATENT & TRADEMARK OFFICE

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

December 2, 2002

John P. White
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re application of:
Sin Qu & Judah Z. Weinberger DECISION ON PETITION
Serial No.: 09/657,701
Filed: September 8, 2000

For: MODIFICATION OF POLYMER SURFACES AS RADIOISOTOPE CARRIERS

This is a decision on the petition received February 22, 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 November 28, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 29, 200l.

On February 22, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed November 28, 2000.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed November 28, 2000.

The petition is hereby GRANTED.

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

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

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6493965
Issue Date: December 17,2002
Application No. 09657729
Filed: September 8,2000
Attorney Docket No. 100-20-051

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

This is a decision on the electronic petition, filed July 26,2007 ,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 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,493,965	2002-12-17	09/657,729	2000-09-08	325428002US

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 G. Woolston/	Date (YYYY-MM-DD)	2007-07-26
Name	Robert G. Woolston	Registration Number	37263

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

ANDRE L. MARAIS
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

MAILED

NOV 1 4 2002

Technology Center 2100

In re Application of: Colleen A. Barton et al.
Application No. 09/657,759
Filed: September 8, 2000
For: METHOD AND LOGIC FOR CAPTURING AND ANALYZING CONDUIT DATA

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed October 1, 2002 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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(h);

(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 merely reproduces the Abstracts provided in each reference with the exception of the first mentioned reference. The submission does not satisfy the requirement of (e) above. That is, it does not provide a ***detailed discussion*** of the references, which discussion points out, with particularity required by 37 CFR 1.111 (b) and (c) of the references that are deemed most closely related to the subject matter encompassed by the pending claims.

In addition, the reference U.S. Patent No. 5,745,572 to James Press is not listed on the Form PTO 1449, Information Disclosure Statement under the requirement of (d) above.

Furthermore, the petition refers to an IDS filed on ***September 3, 1999***, appears to be in error. The instant patent application has a filing date of ***September 8, 2000***.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Vincent A. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture & 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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Paper No.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & SAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

MAILED

MAR 12 2005

Technology Center 2100

In re Application of:
Colleen A. Barton
Application No. 09/657,759
Filed: September 08, 2000
For: METHOD AND LOGIC FOR CAPTURING AND ANALYZING COUDUIT DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 12, 2004.

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

The request filed October 12, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: MADEN, MOSSMAN & SRIM, P.C.
2603 Augusta
Suite 700
Houston, TX 77057

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 5

JONATHAN VELASCO
SIERRA PATENT GROUP LTD.
P.O. BOX 6149
STATELINE, NV 89449

COPY MAILED

NOV 2 1 2001

OFFICE OF PETITIONS

In re Application of
Pradeep Kathail et al.
Application No. 09/657,761
Filed: September 8, 2000
Attorney Docket No. CISCO-3198

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 23, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2000.

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

ATTN: STEPHEN F SCHLATHER
BRACEWELL & PATTERSON
711 LOUISIANA
SUITE 2900
HOUSTON, TX 77002

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Ralph W. Blakemore	:	
Application No. 09/657,883	:	ON PETITION
Filed: September 8, 2000	:	
Attorney Docket No. 093719.008004.000	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 29, 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 30, 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.

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) 305-9282.

The application file is being forwarded to Technology Center AU 3745.

Wan Laymon

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

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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Commissioner for Patents
United States Patent and Trademark Office
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DIW 01-05

MICHAEL J. MALLIE
BLAKELY, SOKOLOFF , TAYLOR & ZAFMAN LLP
12400 WILSHIRE BLVD.
7TH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Ralph W. Blakemore	:	
Application No. 09/657,883	:	ON PETITION
Filed: 8 September, 2000	:	
Attorney Docket No. 6097.P022	:	

This is a decision on the petition, filed on 9 November, 2004, under 37 CFR 1.137(a), and, in the alternative under 37 CFR 1.137(b) to revive the above-identified application.

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

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

The application became abandoned on 22 November, 2003, for failure to timely file the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 21 August, 2003, which set a three (3) month statutory period for reply. Petitioner filed an RCE on 25 November, 2003. On 3 May, 2004, however, a Notice of Improper Request for Continued Examination (RCE) was mailed, stating that the RCE was improper because it was not accompanied by a submissions as required by 37 CFR 1.114.

Petitioner asserts unavoidable delay in that petitioner was informed by the examiner that a one (1) month period for reply to the Notice of Improper RCE existed, although the time period for correcting the deficiencies in the RCE had already passed, and the case had become abandoned, by the time petitioner received the aforementioned Notice was received.

PETITION UNDER 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. 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 Commisioner that 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 item (3) above.

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 be "unavoidable".[1] 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

[1] 35 U.S.C. § 133.

rectification being present.[2]

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).[3] 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.[4]

Although the PTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so.[5] Rather, it is the applicant who is ultimately responsible for filing proper documents.[6] That is, applicant was responsible for filing a proper submission under 37 CFR 1.114 with the RCE but failed to due so. While such a mistake may be unintentional, it does not rise to the level of unavoidable delay.

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.[7] 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

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[2] 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).

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[5] See In re Columbo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994).

[6] Id.

[7] 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).

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.[8]

As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

As petitioner has request treatment under 37 CFR 1.137(b) in the alternative, the petition will be considered under 37 CFR 1.137(b).

PETITION UNDER 37 CFR 1.137(b)

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(**2**) the petition fee required by 37 CFR 1.17(m);

(**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and

(**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

The amendment after allowance filed on 27 May, 2004, will be considered as the reply required under 37 CFR 1.114.

Receipt of the issue fee transmittal form filed on 26 January, 2005, is acknowledged. 37 CFR 1.137(b)(1) states, that in an application abandoned for failure to pay the issue fee, the required reply must be the payment of the issue fee or any outstanding balance thereof. As such the issue fee, and the publication fee, will be charged to counsel's deposit account, No. 02-2666, as authorized on the fee transmittal form filed with the present petition. If the application is subsequently

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[8] 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).

allowed, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee required by the new notice of allowance.[9]

Receipt of the statement indicating a loss of Small Entity status filed on 26 January, 2005, is acknowledged. Small Entity status will no longer apply.

The petition fee under 37 CFR 1.137(b) has been charged to counsel's deposit account as authorized in the present petition.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is being referred to Technology Center Art Unit 3745 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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[9]The request to apply the issue fee to the new Notice of Allowance 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 at the time of payment must be submitted. **Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice of Allowance and payment of any balance due will result in the abandonment of the application.**

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Paper No.

International Business Machines Corporation
Almaden Research Center
650 Harry Road
San Jose CA 95120

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Prpic et al.	:	
Application No. 09/657,956	:	DECISION ON
Filed: September 8, 2000	:	PETITION
Atty Docket No. JP920000170US1	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed December 26, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed April 20, 2006. This Notice set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective July 21, 2006. A courtesy Notice of Abandonment was mailed on December 8, 2006.

In response, the instant petition was filed, asserting that the Office action was never received at the address for attorney Anthony England or by the assignee.

The Office action was mailed to the correspondence address of record. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office

communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has submitted evidence to show non-receipt of the Office action at the address of attorney Anthony England. However, the correspondence address of record is that of the assignee. Petitioner has further submitted evidence to show that requests to change the correspondence address were filed with the Office.

Petitioner's evidence has been considered, and found persuasive. The evidence and the application record show that, on January 20, 2005, an attorney then of record[1], T. Rao Coca, filed a power of attorney appointing attorney England and changing the correspondence address. This change was not made of record. Thus, the review of the application confirms irregularities in the mailing of the Office action mailed April 20, 2006. The Office action was not mailed to the proper address. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed December 8, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2143 has been advised of this decision. The application file is, thereby, forwarded to the Technology

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[1] A review of the record reveals that the declaration for patent and power of attorney filed with the application did not appoint attorney England as an attorney of record. Further, on February 1, 2002, one of the attorneys of record filed an appointment of attorneys, which included a change of correspondence address to the assignee address currently of record. This appointment of attorneys also did not include attorney England. On August 6, 2002, a second change of correspondence address was filed by an attorney of record to again request change of the correspondence address to the assignee address currently of record.

Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed April 20, 2006 and for re-starting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

LYON & HARR, LLP
300 ESPLANADE DRIVE, SUITE 800
OXNARD CA 93036

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MAY 2 0 2004
OFFICE OF PETITIONS

In re Application of :
Richard S. Szeliski et al. :
Application No. 09/658,006 :
Filing Date: September 9, 2000 :
Attorney Docket No. MCS-035-00 :
Title: SYSTEM AND METHOD FOR :
EXTRACTING REFLECTION AND :
TRANSPARENCY LAYERS FROM :
MULTIPLE IMAGES

DECISION ON PETITION
UNDER 37 C.F.R. §1.10

This is a decision on the "request for corrected filing receipt," which is properly treated as a petition under 37 C.F.R. §1.10, filed March 1, 2004, requesting that application number 09/658,006 be accorded a filing date of September 9, 2000.

Shortly after the application was deposited, the Office of Initial Patent Examination (OIPE) mailed Applicant's filing receipt, which indicates that the application had been accorded a filing date of September 8, 2000.

On March 1, 2004, applicant filed the instant petition[1], where it was alleged that the application was deposited on September 9, 2000, and OIPE assigned the wrong filing date to this application. Petitioner has included a copy of Express Mail number EL433214968US.

A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was inconclusive. However, a check of the Office's USPS Express Mail Finder Database computer program shows that the package was

1 The petition contains a certificate of facsimile transmission dated December 7, 2001.

accepted on September 9, 2000. A copy of the latter search result is enclosed.

It is noted that this Express Mail label bears a "date in" which cannot be discerned due to the poor quality of the copy provided with the instant petition.

Although the application received a filing date of September 8, 2000, the evidence is convincing that the application papers were filed on September 9, 2000, and the incorrect filing date was subsequently assigned to this application.

Accordingly, the petition is **GRANTED.**

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 9, 2000, as well as the mailing of a corrected filing receipt.

Any inquiries related to 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

Encl. Printout of the USPS Express Mail Finder Database computer program results

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)
6,938,030	2005-08-30	09/658,016	2000-09-08	GLH 030

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	/norman p. soloway/	Date (YYYY-MM-DD)	2010-06-09
Name	Norman P. Soloway	Registration Number	24315

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6938030
Issue Date: August 30,2005
Application No. 09658016
Filed: September 8,2000
Attorney Docket No. 068520.0107

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

This is a decision on the electronic petition, filed June 9,2010 ,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 9,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Greenberg, et al.
Application No. 09/658,160
Filed: September 8, 2000
Attorney Docket No. S101-DIV

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, 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 October 30, 2002. Accordingly, this application became abandoned on January 31, 2003. A Notice of Abandonment was mailed on May 16, 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).

Furthermore, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The file is being forwarded to Technology Center 3700 for review of the amendment, filed May 3, 2006, *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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Steven Metsker	: DECISION ON REQUEST FOR
Patent Number	: 7650304	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/658,186	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1844** 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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SAN DIEGO, CA 92130-2081

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OFFICE OF PETITIONS

In re Application of	:	
Peter Schroeder	:	
Application No. 09/658,214	:	
Filed: September 8, 2000	:	NOTICE
Attorney Docket No.	:	
06618/579001/CIT3148	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This file is an Image File Wrapper file and, as such, no forwarding of the file is necessary. Examination of the application in Technology Center Art Unit 2671 will continue in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

In re Application of
Castiel, et al.
Application No. 09/658,215
Filed: September 8, 2000
Attorney Docket No. 10636/005001
For: FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed March 6, 2001 (Certificate of Mailing date of February 27, 2001), under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given ONE MONTH 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 September 8, 2000 without an executed oath or declaration and named David Castiel, Jack Anderson, and John E. Draim as joint inventors.

Accordingly, on October 27, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing, along with the required filing fees due in connection with the application.

In response, on March 6, 2001, a petition under 37 CFR 1.47(a) was filed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

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

As to item (1), the petition lacks any supporting evidence that

the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Petitioner should include copies of dated cover letters and/or mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers or having been presented with the application papers, refused to sign the oath or declaration. If oral refusals were made by the non-signing inventor, that fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusals were made. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (4), the petition fails to state the last known address of the non-signing inventor.

Deposit account 06-1050 has been charged the required petition fee of $130.00 as per the authorization contained in the instant petition.

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

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

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

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

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

Patricia Fuson-Ball for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

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OFFICE OF PETITIONS

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

In re Application of
Castiel, et al.
Application No. 09/658,215
Filed: September 8, 2000
Attorney Docket No. 10636/005001
For: FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

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

The petition is **DISMISSED**.

Rule 47 applicant is given ONE MONTH 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 September 8, 2000 without an executed oath or declaration and named David Castiel, Jack Anderson, and John E. Draim as joint inventors.

Accordingly, on October 27, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing, along with the required filing fees due in connection with the application. In response, a petition under 37 CFR 1.47(a) was filed on March 6, 2001 and dismissed July 9, 2001.

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 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (1) referenced above. The petition lacks any supporting evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to

sign the oath or declaration. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Petitioner should include copies of dated cover letters and/or mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers or having been presented with the application papers, refused to sign the oath or declaration. If oral refusals were made by the non-signing inventor, that fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusals were made. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

Petitioner has failed to present any evidence to establish that the non-signing inventor ever received a copy of the application papers (specification, claims, and drawings). The letter dated August 28, 2001 and addressed to the non-signing inventor indicates that the non-signing inventor was presented with a combined declaration and power of attorney and an assignment.

Any renewed petition must be accompanied by evidence that the non-signing inventor has been presented with a copy of the application papers (specification, claims, and drawings).

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

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

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

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

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

for

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

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JJGJR.: 06-04

Paper No: 15

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OFFICE OF PETITIONS

In re Application of
Castiel, et al
Application No. 09/658,215
Filed: 8 September, 2000
Attorney Docket No.: 10636-005001

ON PETITION

This is a decision on the petition filed on 2 April, 2004, requesting withdrawal of the holding of abandonment (as to a Communication alerting Petitioner to the abandoned status of the application) mailed by the Office on 21 May, 2004, and considered under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.181, or 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) (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.

BACKGROUND

The record reflects that:

- the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively (copy of 2 October, 2001, decision enclosed);

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, Petitioner argues in his petition about some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard.

- Petitioner has not as of this writing properly replied to the 2 October, 2001, dismissal, and the application remains abandoned–therefore, the "reply" requirement for revival remains a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder.

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

[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.

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] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of

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

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

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

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

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

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

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

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

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

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

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

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

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

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

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

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

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

the action complained of.

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]

Petitioner fails to satisfy his burden under 37 C.F.R. §1.181

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**.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing surpassing that tendered heretofore, and, therefore, Petitioner's only alternative to irretrievable abandonment likely is to file a petition and fee as set forth at NOTE 1, above at page 1, 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 her 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)[9]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

---

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

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

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

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

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

Encl.: Copy of Decision of 2 October, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No: 16

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OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 : ON PETITION
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

This is a decision on the materials considered as a petition filed on 22 July and supplemented on 19 August, 2004, seeking 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 is **DISMISSED**.

NOTES:

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

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

BACKGROUND

The record reflects that:

- the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively;

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, the 21 May, 2004, petition was dismissed on 16 June, 2004, after Petitioner argued as to some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard, and failed to reply properly to the 2 October, 2001;

- after Petitioner submitted via FAX on 26 July, 2004, some copies of transmittal documents, he filed the instant petition on 19 August, 2004, and even after an attorney from the Office of Petitions reminded Petitioner of the reply requirement in a telephone conference of 9 September, 2004, Petitioner failed to supplement his petition with the required reply–i.e., a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder.

Thus, Petitioner has filed a petition (with fee), and made the statement of unintentional delay, however, he has failed to satisfy the reply requirement of 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).[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

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of

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

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

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

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

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

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

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

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

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

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

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

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

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

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

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

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

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

the action complained of.

Allegations as Unintentional Delay

Petitioner has failed to satisfy the reply requirement under 37 C.F.R. §1.137(b)–that requirement is a grantable petition under 37 C.F.R. §1.47.

CONCLUSION

Because Petitioner failed to satisfy the regulatory requirements, the petition under 37 C.F.R. §1.137(b) must be and hereby is **dismissed**.

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

By mail: (Effective 1 May, 2003)[8]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

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

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

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

UNITED STATES 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.:109-04

Paper No: 20

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

COPY MAILED

OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 :
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

ON PETITION

This is a decision on the materials considered as a petition filed on 10 September, 2004, seeking 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 is **GRANTED**.

BACKGROUND

The record reflects that:

- the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively;

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, the 21 May, 2004, petition was dismissed on 16 June, 2004, after Petitioner argued as to some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard, and failed to reply properly to the 2 October, 2001;

- Petitioner submitted via FAX on 26 July, 2004, copies of transmittal documents, he filed the instant petition on 19 August, 2004, but despite being reminded of the reply requirement (via a telephone conference on 9 September, 2004) by the Office of Petitions, Petitioner failed to supplement his petition with the required reply–i.e., a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder–and, therefore the petition was dismissed on 10 September, 2004.

Petitioner now has filed a petition (with fee), made the statement of unintentional delay, and has satisfied the reply requirement of 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).[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]

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

[4] 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.[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] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as Unintentional Delay

Petitioner has satisfied the reply requirement under 37 C.F.R. §1.137(b)–that requirement is a grantable petition under 37 C.F.R. §1.47.

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

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

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

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

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

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

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

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

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

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

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

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

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

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

CONCLUSION

Petitioner has satisfied the regulatory requirements of 37 C.F.R. §1.137(b), and the petition hereby is **granted**.

The file is being held in the Office of Petitions to address another matter.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR:109-04

Paper No: 21

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

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 : ON PETITION
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 22 December, 2003.

The petition is **GRANTED**.

BACKGROUND

The record reflects that:

- this application was filed on 8 September, 2000, without, *inter alia*, an executed oath or declaration by the named inventors–i.e., it was signed by all named inventors Castiel, et al, save for John E. Draim (Mr. Draim);

- accordingly, the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively;

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, the 21 May, 2004, petition was dismissed on 16 June, 2004, after Petitioner argued as to some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard, and failed to reply properly to the 2 October, 2001;

- Petitioner submitted via FAX on 26 July, 2004, copies of transmittal documents, he filed the instant petition on 19 August, 2004, but despite being reminded of the reply requirement (via a telephone conference on 9 September, 2004) by the Office of Petitions, Petitioner failed to supplement his petition with the required reply–i.e., a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder–and, therefore the petition was dismissed on 10 September, 2004;

- on 10 September, 2004, Petitioner filed a petition to revive, which was granted on 25 October, 2004;

- with the instant petition, Petitioner has shown proprietary interest/irreparable harm and that, while all of the co-inventors Castiel et al have signed the oath/declaration, save for the non-signing inventor **Mr. Draim**, who has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Scott C. Harris (Reg. No. 32,030) and Bing Al (Reg. No. 43,312) establish that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision,

and then will be forwarded to Publications Branch to be processed into a patent.

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

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

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

JJGJR:109-04

Paper No: 22

JOHN E. DRAIM
9310 TELFER COURT
VIENNA, VA 22182-3438

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

COMMUNICATION

In re Application of
Castiel, et al :
Application No. 09/658,215 :
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

Dear John E. Draim:

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, ¶a, 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 concerning this correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

FEB 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
David Castiel, et al.
Application No. 09/658,215
Filed: September 8, 2000
For: **FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS**

DECISION SUA SPONTE WITHDRAWING IMPROPER APPOINTMENT OF ATTORNEYS

This is a decision, *sua sponte*, withdrawing the appointment of attorneys improperly filed on November 4, 2004 and entered into the above-identified application.

A review of the application reveals that a petition decision, granting the application status under 37 C.F.R. §1.47(a) with respect to a non-signing inventor, was mailed on October 29, 2004. A courtesy copy of said petition decision was sent to the non-signing inventor at the address given for the inventor within the petition request. Subsequent to the petition decision, on November 4, 2004, the non-signing inventor submitted an "Appointment of Attorneys" communication.

MPEP § 402.10 Appointment/Revocation by Less Than All Applicants or Owners, states in part:

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition and fee under 37 CFR 1.182 giving good and sufficient reasons as to why such papers should be accepted. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.182 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.182. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.182 submitted by a previously nonsigning inventor who has now joined in the

> application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. An indication will be placed on the file wrapper as to the number of signatures necessary for accepting subsequent replies and the paper number(s) where the split powers of attorney appear. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree. Each attorney or agent signing subsequent papers must indicate whom he or she represents. [emphasis added]

In accordance with MPEP §402.10, the "Appointment of Attorneys" was improper and should not have been entered by the Office. The communication was not signed by all inventors and/or the assignee of record and also given the granted status under 37 C.F.R. §1.47(a), a petition would have been required with the exception that a petition under 37 C.F.R. §1.182 would not have been granted from the non-signing inventor. Accordingly, the improperly entered appointment from the non-signing inventor is hereby vacated and the correspondence/power of attorney has been restored to the address listed above. A courtesy copy of this decision will be mailed to the address listed below. However, all future communications will be sent to the address listed above until a proper change in correspondence address is filed.

Subsequent to the improper appointment, a Notice of Allowance was mailed on January 10, 2005, to the improper correspondence address. Therefore, in addition to vacating the improper Appointment of Attorneys, the Notice of Allowance and Issue Fee due is also hereby vacated.

The application file is being forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due. The new Notice of Allowance and Issue Fee Due as well as Notice of Allowability will be re-mailed setting a new three month statutory period for payment of the issue fee.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

Cc: Rabin & Berdo PC
1101 14th Street NW
Suite 500
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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JUN 06 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Qwest Communications
International Inc.
Law Dept. Intellectual Prop. Group
1801 California Street, Suite 3800
Denver, CA 80202

In re Application of
Donald L. Hohnstein et al.
Application No. 09/658,241
Filed: September 8, 2000
For: Reverse Sectorization Wireless
Communication

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

This is a decision in response to the petition under 37 CFR 1.47(a), filed March 26, 2001.

The petition under 37 CFR 1.47(a) is granted.

Petitioner has shown that the nonsigning inventors have refused to join in the filing of the above-identified application.

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

As provided in Rule 1.47(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 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.

After the mailing of this decision, the file will be forwarded to Office of Initial Patent Examination for preexamination processing.

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

Frances Hicks

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

cc: Brooks & Kushman
1000 Town Center, 22nd Floor
Southfield, MI 48075

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 06 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Angus O. Dougherty
11281 Ranch Place
Westminster, CO 80234

In re Application of
Donald L. Hohnstein, Charles I. Cook, Angus O. Dougherty, Thomas Schwengler, Patrick L. Perini, and Brian L. Arend
Application No. 09/658,241
Filed: September 8, 2000
For: Reverse Sectorization Wireless Communication

Dear Mr. Dougherty:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position or record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. 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 Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed

to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc: Qwest Communications International Inc.
1000 Town Center, 22nd Fl.
Southfield, MI 48075

cc: Brooks & Kushman
Law Dept. Intellectual Property Group
1801 California Street, Suite 3800
Denver, CO 80202

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 06 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Donald L. Hohnstein
2721 19th Street
Greeley, CO 80634

In re Application of
Donald L. Hohnstein, Charles I. Cook, Angus O. Dougherty, Thomas Schwengler, Patrick L. Perini, and Brian L. Arend
Application No. 09/658,241
Filed: September 8, 2000
For: Reverse Sectorization Wireless Communication

Dear Mr. Hohnstein:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position or record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. 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 Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed

to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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JUN 21 2006

OFFICE OF PETITIONS

In re Patent of Nelson	:	
Patent No. 7,013,279	:	
Issue Date: March 14, 2006	:	Decision on Request for Reconsideration
Application No. 09/658,243	:	of Patent Term Adjustment
Filing Date: September 8, 2000	:	
Attorney Docket No. FXPL-01025US0	:	

This is a decision in response to the "Application for Patent Term Adjustment Under 37 C.F.R. 1.705(d)," filed May 18, 2006, which in essence requests that the Patent Term Adjustment for the above-identified patent be increased to 997 days.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance on September 12, 2005, stated the patent term adjustment to date was 1,028 days.

The patent issued on March 14, 2006. The printed patent shows a patent term adjustment of 928 days.

The initial determination of PTA of 1,028 was reduced by 100 days for applicant delay as a result of applicant filing both an amendment and drawings on December 5, 2005, after allowance.

Applicant contends the December 5, 2005 amendment should have only resulted in a 31 deduction because the Office mailed a response on January 4, 2006.

Per 37 CFR 1.704(c)(10), a reduction in patent term adjustment is proper when an amendment under 37 CFR 1.312 or "another paper" is submitted after a notice of allowance has been mailed. The amount of the reduction is the lesser of:

(1) the time from the day of (NOT AFTER) receipt of the amendment or paper until the mailing of an Office action or notice in response to the amendment or paper, or

(2) four months (120 days).

The time period from the day the amendment was filed, December 5, 2005, until the mailing of an Office action on January 4, 2006, is 31 days. Therefore, applicant is correct that the *amendment* should have resulted in a reduction of 31 days.

Although the filing of the amendment only warrants a reduction of 31 days, the Office was correct in reducing the initial determination of PTA of 1,028 by 100 days for applicant delay.

Formal drawings were filed December 5, 2005. The patent issued on March 14, 2006. Therefore, the proper reduction for the drawings would have been 100 days *if* the amendment had not been filed.

37 CFR 1.703(f) states, "To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed." In essence, 37 CFR 1.703(f) ensures an applicant will not be penalized twice for the same time period of delay.

The patent term adjustment cannot be reduced by 31 days for the amendment and then reduced by another 100 days for the drawings, since 31 days of the delay overlap. Therefore, a reduction of 69 days is proper for the drawings. The total reduction of 100 days for the amendment and drawings was proper and correct.

The record has been reconsidered, and it has been determined that the period of adjustment on the patent was correctly shown as 928 days.

Any response to 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 NOT permitted. Any response should include a cover letter entitled "Renewed Request under 37 CFR 1.705(d)."

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

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

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-18-06

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/1058261 Patent No.: 6465463

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 check figs.

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: Changes to Figs. 2A-2B are appropriate.

SPE

1614
Art Unit

APR 2 0 2001

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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

P. WESTON MUSSELMAN JR
JENKENS & GILCHRIST PC
SUITE 3200
1445 ROSS AVENUE
DALLAS , TX 75202-2799

In re Application of	:
Paul Bateman	:
Serial No.: 09/658,302	: PETITION TO MAKE SPECIAL
Filed: September 8, 2000	:
Attorney Docket No.: 49447-2	:

This is in response to applicants' petition filed September 8, 2000, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision. The provisional election of claims 30-49 and 98-99 is noted.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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P. Weston Musselman Jr
Jenkens & Gilchrist PC
3200 Fountain Pl.
1445 Ross Avenue
Dallas TX 75202-2799

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DEC 18 2006
OFFICE OF PETITIONS

Patent No. 6,391,654 :
Issued: May 21, 2002 :
Application No. 09/658,302 : ON PETITION
Filed: September 8, 2000 :
Attorney Docket No. 49447-2USPX :
For: SEPARATION AND DETECTION OF SPERMATOZOA

This is a decision on the petition, filed July 31, 2006 (certificate of mailing date July 27, 2006), under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued May 21, 2002. The grace period for paying the 3½ year maintenance fee expired at midnight on May 21, 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).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision. Petitioner paid a $65.00 grace period fee along with the 3 ½ year maintenance fee and the surcharge. The grace period fee is unnecessary and will be refunded to deposit account no. 10-0447.

After the mailing of this decision, the file will be forwarded to Files Repository.

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR - 8 2005

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of:
Rodgers et al.
Serial No.: 09/658,315
Filed: September 8, 2000
Attorney Docket No.: 98.009-B1

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on September 11, 2003, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed November 15, 2002. The delay in responding to this petition is regretted, however, it has only just been brought to the attention of the deciding authority.

A review of the file history shows that the examiner mailed an Office action to applicants on November 15, 2002, setting a three-month statutory time period for reply. On July 1, 2003, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a timely response to the Office action was filed on February 10, 2003, as evidenced by the post card identifying the papers filed and showing a USPTO date-stamped receipt of February 10, 2003 and showing an express mail date of February 10, 2003.

In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as the application is no longer in abandoned status.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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JAN 21 2004

#9

MCDONNELL, BOEHNEN, HULBERT
& BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

In re Application of	:
Kathleen Rodgers et al	:
Serial No.: 09/658,315	: PETITION DECISION
Filed: September 8, 2000	:
Attorney Docket No.: 98009-B1	:

This is in response to the petition under 37 CFR 1.181, filed September 11, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on November 15, 2002, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on July 1, 2003. Applicants state that a reply was filed February 10, 2003, and provide an Office date stamped postcard evidencing receipt of the reply by the Office. Applicants provide a copy of the reply with the petition which will be entered in the file. In view of the evidence presented the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-272-0519 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:	
Rodgers, et al.	:	DECISION ON APPLICATION
Application No. 09/658,315	:	FOR PATENT TERM ADJUSTMENT
Filed: September 8, 2000	:	
Atty. Dkt. No: 98.009-B1	:	

This is a decision on the "Request for Patent Term Adjustment Determination," filed March 7, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 765 days, as indicated on the Determination of Patent Term Adjustment mailed January 10, 2007, to an adjustment of 1188 days. Specifically, applicants argue that the reduction 208 days was improperly accorded and that the adjustment of 929 days is less than should be accorded.

The correct patent term adjustment (PTA) at the time of the allowance is 1178 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 1178 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

As uncontested by applicants, an adjustment of 126 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

As argued by applicants, the application is entitled to an adjustment of 1144 days, rather than 929 days as reflected in the Determination of Patent Term Adjustment mailed January 10, 2007, in accordance with 37 CFR 1.702(a)(2). The adjustment began June 11, 2003, the day after the date that is four months after the date that a reply to the non-final Office action was

filed, and ended July 28, 2006, the date that the second non-final Office action was mailed.

The adjustment totaling 1270 days is properly reduced 70 days, as uncontested by applicants, in accordance with 37 CFR 1.704(b) in connection with the reply submitted August 23, 2002.

The adjustment totaling 1270 days is further properly reduced 10 days in accordance with 37 CFR 1.704(c)(4) in connection with the petition to withdraw holding of abandonment filed September 11, 2003. The reduction began September 2, 2003, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ended September 11, 2003, the date the petition was filed.

The adjustment totaling 1270 days is further properly reduced 12 days, as uncontested by applicants, in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement field November 8, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 1178 days.

As authorized, applicants' deposit account has been charged the required $200.00 application fee.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

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Paper No. 9

ANDERSON L. BALDY III
HOLLAND & KNIGHT LLP
400 N. ASHLEY DRIVE
SUITE 2300
TAMPA, FL 33602

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OCT 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Michael A. Starr, et al.. :
Application No. 09/658,330 : ON PETITION
Filed: September 8, 2000 :
Attorney Docket No. 2005654-2055 :

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

The petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $950 extension fees are being credited to counsel's deposit account.

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 2661 for consideration of the amendment filed August 12, 2004.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,721,744	2004-04-13	09/658,346	2000-09-07	INT1P210

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	/Lee Van Pelt/	Date (YYYY-MM-DD)	2008-06-06
Name	Lee Van Pelt	Registration Number	38352

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6721744
Issue Date: April 13,2004
Application No. 09658346
Filed: September 7,2000
Attorney Docket No. INT1P210

:

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

:

This is a decision on the electronic petition, filed June 6,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 6,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933

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MAR 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Jacobs et al.	:	
Application No. 09/658,356	:	ON PETITION
Filed: September 11, 2000	:	
Attorney Docket No. CDS	:	

This decision concerns the February 13, 2004 petition under 37 CAR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on December 5, 2003 for failure to timely pay the issue fee.

The instant petition encloses a Request for Continued Examination (RCE) and the $770 RCE filing fee; an Information Disclosure Statement as the RCE "submission" required by 37 CFR 1.114; and the $1,330 petition fee. The petition also states in effect that the entire delay in paying the issue fee from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

Prosecution in the application is reopened.

The application file is being forwarded to Technology Center 1700 for continued examination.

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

RC Tang
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
www.uspto.gov

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

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NOV 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kojima et al.	:	
Application No. 09/658,501	:	
Filed: September 8, 2000	:	
Attorney Docket No. 40258/273851	:	

This is a decision on the petition under 37 CFR 1.181, filed December 23, 2004, to withdraw the holding of abandonment.

The petition is **granted.**

A Final Office action was mailed on October 22, 2002.

An amendment and a request for a one month extension of time were filed. The examiner mailed an advisory action stating the amendment failed to place the application in condition for allowance.

Office records failed to indicate a proper reply was filed to the final Office action and the application was deemed abandoned as of February 23, 2003.

A Notice of Abandonment was mailed on July 15, 2003.

Petitioner contends *and has proven* that a RCE, request for a three month extension of time, and authorization to charge the fees were filed on April 17, 2003.

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

No petition fee is required for a petition to withdraw holding of abandonment under 37 C.F.R. §1.181. The Office incorrectly charged $130 to petitioner's deposit account for the petition. The $130 fee will be credited back to petitioner's deposit account.

The fee for $750 for the RCE and the fee of $820 for the request for a three month extension of time have been charged to petitioner's deposit account.

Technology Center Art Unit 1763 will be informed of the instant decision so that the examiner can consider the copy of the RCE filed with the petition, and the amendment filed on February 24, 2003, in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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HARMAN – BRINKS HOFER
CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Paul Robert WILLIAMS	:	
Application No. 09/658,538	:	DECISION ON PETITION
Filed: September 9, 2000	:	TO WITHDRAW
Attorney Docket No. 11336/190 (P00028US)	:	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 June 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHDRIDGE, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

MARTIN G LINIHAN
HODGSON RUSS ANDREWS WOODS & GOODYEAR
SUITE 2000, ONE M & T PLAZA
BUFFALO, NY 14203-2391

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SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of :
John K. Schneider et al :
Application No. 09/658,638 :
Filed: September 11, 2000 :
Attorney Docket No. 13325.0032 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2621.

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

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OFFICE OF PETITIONS

Hodgson Russ LLP
One M & T Plaza
Suite 2000
Buffalo NY 14203-2391

In re Application of
Schneider et al.
Application No. 09/658,638
Patent No. 7,190,817
Filed: September 11, 2000
Attorney Docket No. 013325.00036

: DECISION GRANTING PTA LETTER

This decision is in response to Patentees "LETTER REGARDING PATENT TERM ADJUSTMENT PERIOD" FILED ON March 19, 2007 requesting that the USPTO review the PTA determination at the time of the issuance of the patent in light of the reply date to the notice to file missing parts. The Office thanks patentees for their good faith and candor in bringing this matter to the attention of the USPTO.

Patentee's request is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 1139-days rather than the 1178-day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

If patentee disputes this determination, patentee may file a reply within **thirty days or one-month** whichever is longer. No extensions of time under 37 CFR 1.136.

Patentee argues that the Office erred in failing to take into consideration the failure to meet the requirements of 37 CFR 1.704(b) in that applicant failed to respond to the Office's notice to file missing parts within three months.

Patentee's argument is persuasive. Upon review, the record clearly reflects that the applicants responded to the Office's notice (mailed on October 23, 2000) on March 5, 2001. This amounted to thirty-nine (39) days beyond three months. Accordingly, the correct determination at the time of the issuance of the patent is reduced by thirty-nine (39) days to reflect a determination at the time of the issuance of one thousand one hundred and thirty-nine (1139) days.

After review of this decision, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction. The certificate of correction branch will wait the longer of thirty-days or one-month and then issue such certificate of correction if no reply.

Since this letter is considered a letter of good faith and candor, the USPTO will not assess a

Application No. 09/658,638

$200.00 fee.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A. Fries

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

cc: Adjusted Pair Calculation
Draft Certificate of Correction

Day : Wednesday

PALM INTRANET

Date: 1/30/2008
Time: 15:29:39

PTA Calculations for Application: 09/658638			
Application Filing Date:	09/11/2000	PTO Delay (PTO):	1279
Issue Date of Patent:	03/13/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	101
Post-Issue Petitions:	0	Total PTA (days):	1139
PTO Delay Adjustment:	-39		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	01/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		39	
50.5	02/21/2007	PTA 36 MONTHS	386		
50	03/13/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	02/06/2007	EXPORT TO FINAL DATA CAPTURE			
48	02/05/2007	DISPATCH TO FDC			
47	02/05/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
46	02/02/2007	ISSUE FEE PAYMENT VERIFIED			
45	02/02/2007	ISSUE FEE PAYMENT RECEIVED			
44	12/26/2006	FINISHED INITIAL DATA CAPTURE			
43	11/06/2006	EXPORT TO INITIAL DATA CAPTURE			
42	11/03/2006	MAIL NOTICE OF ALLOWANCE			
41	11/02/2006	ISSUE REVISION COMPLETED			
40	11/02/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	11/02/2006	NOTICE OF ALLOWABILITY			
38	11/01/2006	DATE FORWARDED TO EXAMINER			
37	10/27/2006	AMENDMENT AFTER FINAL REJECTION			
36	07/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	07/24/2006	FINAL REJECTION			
34	05/03/2006	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
33	05/03/2006	NEW OR ADDITIONAL DRAWING FILED			
32	05/10/2006	DATE FORWARDED TO EXAMINER			
31	05/03/2006	RESPONSE AFTER NON-FINAL ACTION		35	28

30	05/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	12/29/2005	MAIL NON-FINAL REJECTION			
27	12/27/2005	NON-FINAL REJECTION			
26	12/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	10/14/2005	DATE FORWARDED TO EXAMINER			
24	09/29/2005	APPEAL BRIEF FILED			
23	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	04/27/2005	NOTICE OF APPEAL FILED		2	20
21	04/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	01/25/2005	MAIL FINAL REJECTION (PTOL - 326)	24		16
19	01/24/2005	FINAL REJECTION			
18	01/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	11/09/2004	DATE FORWARDED TO EXAMINER			
16	09/01/2004	RESPONSE AFTER NON-FINAL ACTION		64	13
15	09/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	09/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	03/29/2004	MAIL NON-FINAL REJECTION	869		-1
12	03/22/2004	NON-FINAL REJECTION			
11	07/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	07/14/2003	TRANSFER INQUIRY TO GAU			
9	09/12/2002	MAIL-PETITION DECISION - GRANTED			
8	06/24/2002	PETITION ENTERED			
7	04/24/2001	APPLICATION DISPATCHED FROM OIPE			
6	04/20/2001	APPLICATION IS NOW COMPLETE			
5	04/19/2001	CORRESPONDENCE ADDRESS CHANGE			
4	10/23/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/23/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/04/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/11/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,190,817 B1
DATED	:	March 13, 2007
INVENTOR(S)	:	Schneider et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (233) days

Delete the phrase "by 1178 days" and insert – by 1139 days--

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MICHAEL R. CAMMARATA
BIRCH STEWART KOLASCH & BIRCH LLP
P O BOX 747
8110 GATEHOUSE ROAD, SUITE 500 EAST
FALLS CHURCH, VA 22040-0747

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APR 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
SEMAAN, Ghassan	:	
Application No. 09/658,778	:	DECISION ON PETITION
Filed: September 11, 2000	:	TO WITHDRAW
Attorney Docket No. 4450-0249P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael R. Cammarata et al has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.136(b) is moot.

It is noted that Michael R. Cammarata, Henock Gessesse, Douglas B. Luftman, and David L. Soltz were all appointed as associate attorneys by one of the principal attorneys appearing in the Power of Attorney submitted with the application, which Power of Attorney did not comply with the provisions of 37 CFR 3.73(b). Nevertheless, a power of attorney to patent practitioners associated with a Customer Number that is filed subsequent to another power of attorney will be treated as a revocation of the previously granted power of attorney.

In view of the Notice of Acceptance of Power of Attorney mailed September 19, 2005, all future communications from the Office will be directed to the below-listed address of record for Dougherty Clements Hofer Bernard & Walker.

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

This application is being referred to Technology Center AU 2616 for appropriate action in the normal course of business on the reply received March 13, 2006.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Dougherty Clements Hofer Bernard & Walker
1901 Roxborough Road
Suite 300
Charlotte, NC 28211

Ciena Corporation
1201 Winterson Road
Linthicum, MD 21090

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PIONEER HI-BRED INTERNATIONAL, INC.
7100 NW 62ND AVE DARWIN BLDG
PO BOX 1000
JOHNSTON IA 50131

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Duvick et al.	:	
Application No. 09/658,835	:	ON PETITION
Filed: September 8, 2000	:	
Attorney Docket No. P05573US2-PHI 1134R	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 26, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

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

cc: MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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)
6,925,593	2005-08-02	09/658,840	2000-09-08	GLH 593

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	/norman p. soloway/	Date (YYYY-MM-DD)	2010-06-09
Name	Norman P. Soloway	Registration Number	24315

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
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In re Patent No. 6925593
Issue Date: August 2,2005
Application No. 09658840
Filed: September 8,2000
Attorney Docket No. 068520.0104

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

This is a decision on the electronic petition, filed June 9,2010 ,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 9,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

#8
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 19 2003

MAILED

MAR 19 2003

OFFICE OF THE DIRECTOR
TC 3600

Finnegan Henderson Farabow
Garrett & Dunner LLP
1300 I Street NW
Washington, DC 20005

In re application of
Dirk P. Gunther et al.
Application No. 09/658,866
Filed: September 8, 2000
For: METHOD AND SYSTEM FOR DEVELOPING OPTIMIZED SCHEDULES

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 18, 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 conditions A) and B) above.

As to condition A), it is not clear if Debbie Segars of Sabre Inc. is withdrawing. She is listed in the original Power of Attorney but is not part of the firm of Finnegan, Henderson, Farabow, Garrett and Dunner. Also, the request is not signed by an attorney of record.

As to condition B), a reason for withdrawal has not been given.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KD/dw: 01/13/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

PAUL S. MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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AUG 2 4 2001

OFFICE OF PETITIONS

In re Application of Kristopher T. Kohl and C. Mitch Means Application No. 09/658,907 Filed: September 11, 2000 Attorney Docket No. 194-13026-CI	DECISION GRANTING PETITION UNDER §1.48(f)(1) and DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the request for correction of inventorship under 37 CFR 1.48(a), and the petition under 37 CFR 1.47(a), both filed May 14, 2001. This is also in response to the petition for admission of declaration and power of attorney filed June 11, 2001.

The above-identified application was filed on September 11, 2000, without an executed oath or declaration and identifying Kristopher T. Kohl as sole inventor. Accordingly, on November 14, 2000, a "Notice to File Missing Parts of Application," was mailed to applicant, requiring an executed oath or declaration and a surcharge for late filing under §1.16(e). This Notice set a two-month period for reply.

In reply, applicant filed the instant request under §1.48(a) to amend the inventorship to add a joint inventor, C. Mitch Means, and a petition (and fee) for status under §1.47 because of the unavailability of inventor Kohl to join in the application. The reply was made timely and complete by an accompanying request for a four-month extension of time and payment of the surcharge. Prior to the decision on petition filed May 14, 2001 refusing status under §1.47(a) being mailed, petitioner on June 11, 2001, filed a declaration and power of attorney executed by both inventors, Kohl and Means.

In regards to the request for correction of inventorship, applicant's attention is directed to 37 CFR 1.48(f)(1), which provides that:

> If the correct inventor or inventors are not named on filing a nonprovisional application under §1.53(b) without an executed oath or declaration under §1.63 by any of the inventors, the first submission of an executed oath or declaration under §1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship.

Pursuant to this section, no petition is necessary in this case to correct inventorship. The first submission, on May 14, 2001, of a declaration executed by inventor Means on behalf of himself and on behalf of non-signing inventor Kohl serves to correct the

inventorship. However, a declaration signed by one inventor on behalf of another is only sufficient where applicant has established status under §1.47(a). On petition filed May 14, 2001, applicants did not establish such status because: 1) applicants did not demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d); and 2) the petition did not include a statement of non-signing inventor Kohl's last known address[1].

Nonetheless, the declaration filed June 11, 2001 has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

As the petition under 1.47(a) was considered on the merits, the petition fee is being retained.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing, including adding C. Mitch Means as a joint inventor pursuant to the declaration and power of attorney filed June 11, 2001, and sending applicant a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

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

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[1] A grantable petition under 37 C.F.R. §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.

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. 6389763
Issue Date: May 21,2002
Application No. 09659044
Filed: September 11,2000
Attorney Docket No. CLAUSS-1

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

This is a decision on the electronic petition, filed September 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 September 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,389,763	2002-05-21	09/659,044	2000-09-11	070493

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	/Lynn J. Alstadt/	Date (YYYY-MM-DD)	2007-09-06
Name	Lynn J. Alstadt	Registration Number	29362

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

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OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of
Wilson
Application No. 09/659,112
Filed: September 11, 2000
Attorney Docket No. 9D-RG-19254

ON PETITION

This decision concerns the petition under 37 CFR 1.137(b), filed by facsimile on October 14, 2002, requesting that the above-identified application be revived.

The petition is **GRANTED.**

This application became abandoned on December 20, 2000 due to failure to timely submit a proper oath or declaration as required by the October 19, 2000 Notice to File Missing Parts of Nonprovisional Application, which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

The instant petition includes an executed "Declaration and Power of Attorney"; an authorization to charge the $1,280 petition fee and the $130 surcharge for late filing of an acceptable declaration to Deposit Account No. 01-2384; and a statement that the entire delay in filing the declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is now complete.

In addition, the Office acknowledges receipt on July 30, 2002 (by facsimile) of an "Associate Power of Attorney and Change of Correspondence Address." The associate power of attorney and the new correspondence address have been entered and made of record.

The application file is being returned to the Office of Initial Patent Examination for further processing of the declaration, and for mailing of a filing receipt if one has not yet been issued. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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AUG 05 2008

In re Application of	:	
Jeffry Jovan PHILYAW	:	
Application No. 09/659,167	:	DECISION ON PETITION
Filed: September 11, 2000	:	
Attorney Docket No. PHLY-25341	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 01, 2008, 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 20, 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 19, 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 an Appeal Brief; (2) the petition fee of 770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed June 20, 2008, is accepted as having been unintentionally delayed.

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

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

This application is being referred to Technology Center AU 3624 for appropriate action on the concurrently filed Appeal Brief.

Michelle R. Eason
Paralegal Specialist
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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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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OCT 16 2006
OFFICE OF PETITIONS

In re Application	:	
Lindsay, et al.	:	
Application No. 09/659,306	:	DECISION ON APPLICATION
Filed: September 12, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 659/718	:	

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed July 13, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand, two hundred eighty-one (1281) days to one thousand, two hundred seventy-eight (1278) 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 two hundred seventy-eight (1278) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 12, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was one thousand, two hundred eighty-one (1281) days.

The Office initially determined a patent term adjustment of one thousand, two hundred eighty-one (1281) days based on an adjustment for PTO delay of one thousand, two hundred eighty-one (1281) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay. The PTO delay of 1281 days has been reviewed and found to be correct.

Applicants point out that they should have been assessed an additional delay of three (3) days pursuant to 37 C.F.R. § 1.704(b) for filing a late response to a Notice to File Missing Parts. The Office mailed a Notice to File Missing Parts on November 17, 2000. Applicant filed a reply on February 20, 2001. Although the reply was made timely for purposes of avoiding abandonment by obtaining a one month extension of time and including a Certificate of Mailing dated February 15, 2001, the reply was not timely pursuant to 37 C.F.R. 1.704(b). Accordingly, three (3) days of applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one thousand, two hundred seventy-eight (1278) days** (1281 days of PTO delay, reduced by 3 days of applicant delay).

No fee has been charged. The Office thanks applicants for their good faith and candor in bringing this matter to the Office's attention.

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

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

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

Enclosure: Copy of Revised PAIR Screen

Day : Saturday
Date: 10/14/2006

PALM INTRANET

Time: 14:03:04

PTA Calculations for Application: 09/659306			
Application Filing Date:	09/12/2000	PTO Delay (PTO):	1281
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1278
PTO Delay Adjustment:	-3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	10/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
31	04/12/2006	MAIL NOTICE OF ALLOWANCE			
30	04/11/2006	ISSUE REVISION COMPLETED			
29	04/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	04/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	04/10/2006	NOTICE OF ALLOWABILITY			
26	10/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/03/2006	NEW OR ADDITIONAL DRAWING FILED			
24	01/12/2006	DATE FORWARDED TO EXAMINER			
23	01/03/2006	RESPONSE AFTER NON-FINAL ACTION			
22	10/21/2005	REFERENCE CAPTURE ON IDS			
21	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/05/2005	MAIL NON-FINAL REJECTION			
19	10/03/2005	NON-FINAL REJECTION			
18	07/05/2005	DATE FORWARDED TO EXAMINER			
17	06/27/2005	RESPONSE AFTER NON-FINAL ACTION			
16	05/16/2005	MAIL NON-FINAL REJECTION	1281		-1
15	04/19/2005	NON-FINAL REJECTION			
14	04/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	05/30/2002	REFERENCE CAPTURE ON IDS			
11	05/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

10	04/03/2002	REFERENCE CAPTURE ON IDS			
9	04/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	12/04/2000	REFERENCE CAPTURE ON IDS			
7	12/04/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	05/03/2001	APPLICATION DISPATCHED FROM OIPE			
5	05/03/2001	APPLICATION IS NOW COMPLETE			
4	11/17/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/16/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/04/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 15

HORST M KASPER
13 FOREST DRIVE
WARREN, NJ 07059

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DEC 28 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Chhedi Lal Verma et al.
Application No. 09/144,789
Filed: September 1, 1998
Attorney Docket No. FRB208

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 20, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 09/659,428.

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

The application file is being forwarded to Files Repository.

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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Paper No. 13

Aaron Passman
Mikohn Gaming Corporation
P. O. Box 98686
Las Vegas, NV 89193-8686

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MAY 21 2002

OFFICE OF PETITIONS

In re Application of	:	
Olaf Vancura	:	
Application No. 09/659,430	:	ON PETITION
Filed: September 8, 2000	:	
Attorney Docket No. 2000/4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2002 and supplemented on May 13, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed September 21, 2001, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 22, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Publishing Division for further processing.

Retta Williams

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

Latrice Bond

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

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Hansra Patent Services
4525 Glen Meadows Place
Bellingham, WA 98226

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Donald Adams, et al.	:	
Application No. 09/659,481	:	ON PETITION
Filed: September 11, 2000	:	
Attorney Docket No. Q00-1032-US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The 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) under 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

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

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,406,442	:	
Issued: July 29, 2008	:	
Application No. 09/659,585	:	PATENT TERM ADJUSTMENT
Filed: September 11, 2000	:	
Dkt. No.: 5793-3013	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed September 19, 2008. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED.

The above-identified application matured into U.S. Patent No. 7,406,442 on July 29, 2008. The instant application for patent term adjustment was timely filed. The patent issued with a PTA of 208 days. Patentees argue that the patent is entitled to an adjustment of 209 days due to an overlap in post-allowance reductions.

Patentees' arguments have been carefully considered and found convincing.

The adjustment was reduced three days pursuant to 37 CFR 1.704(b) in connection with the submission of the issue fee. The reduction commenced January 20, 2008 and ended January 22, 2008.

The adjustment was also reduced 120 days pursuant to 37 CFR 1.704(c)(10) in connection with the Rule 312 amendment submitted January 22, 2008. The reduction commenced January 22, 2008 and ended four months later.

As both post-allowance reductions occurred on January 22, 2008, the adjustment is reduced one day and not two days to account for the overlap.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 209 days (adjustments totaling 701 days less reductions totaling 492 days), as argued by patentee.

The Office hereby acknowledges receipt of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 209 days.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,406,442 B1
DATED	:	July 29, 2008
INVENTOR(S)	:	Kottmeier, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 208 days

Delete the phrase "by 208 days" and insert – by 209 days--

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 19:09:22

PTA Calculations for Application: 09/659585			
Application Filing Date:	09/11/2000	PTO Delay (PTO):	701
Issue Date of Patent:	07/29/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	493
Post-Issue Petitions:	0	Total PTA (days):	209
PTO Delay Adjustment:	1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
119	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
115.5	07/09/2008	PTA 36 MONTHS			
115	07/29/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	68		107
114	07/02/2008	EXPORT TO FINAL DATA CAPTURE			
113	06/27/2008	DISPATCH TO FDC			
112	06/27/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
111	06/27/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
110	01/22/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
109	04/30/2008	PUBS CASE REMAND TO TC			
108	04/03/2008	FINISHED INITIAL DATA CAPTURE			
107	01/22/2008	ISSUE FEE PAYMENT VERIFIED		3	94
106	03/26/2008	WORKFLOW - QUERY REQUEST - FINISH			
105	03/21/2008	TC RETURN TO PUBS			
104	03/20/2008	ISSUE REVISION COMPLETED			
103	03/20/2008	TC RETURN TO PUBS			
102	01/22/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	111
101	01/24/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
100	01/08/2008	PUBS CASE REMAND TO TC			
99	01/22/2008	ISSUE FEE PAYMENT RECEIVED			
98	01/22/2008	TC RETURN TO PUBS			
97	01/22/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
96	01/16/2008	WORKFLOW - QUERY REQUEST - BEGIN			

95	10/23/2007	EXPORT TO INITIAL DATA CAPTURE			
94	10/19/2007	MAIL NOTICE OF ALLOWANCE	12		83
93	09/06/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
92	09/04/2007	ISSUE REVISION COMPLETED			
91	08/20/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
89	07/16/2007	ISSUE REVISION COMPLETED			
88	06/25/2007	DOCUMENT VERIFICATION			
87	06/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	04/20/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
85	06/25/2007	NOTICE OF ALLOWABILITY			
84	06/14/2007	DATE FORWARDED TO EXAMINER			
83	06/07/2007	RESPONSE AFTER NON-FINAL ACTION		31	81
82	06/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
81	02/07/2007	MAIL NON-FINAL REJECTION			
80	01/08/2007	NON-FINAL REJECTION			
79	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
78	11/03/2006	DATE FORWARDED TO EXAMINER			
77	10/30/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
76	11/03/2006	DATE FORWARDED TO EXAMINER			
75	10/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
74	11/03/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
73	10/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
72	10/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
71	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
70	08/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
69	08/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
68	07/26/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	07/27/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

66	05/30/2006	NOTICE OF APPEAL FILED		91	60
65	05/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	03/14/2006	MAIL ADVISORY ACTION (PTOL - 303)			
63	03/09/2006	ADVISORY ACTION (PTOL-303)			
62	03/07/2006	DATE FORWARDED TO EXAMINER			
61	02/28/2006	AMENDMENT AFTER FINAL REJECTION			
60	11/29/2005	MAIL FINAL REJECTION (PTOL - 326)			
59	11/23/2005	FINAL REJECTION			
58	10/05/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
57	03/04/2002	REFERENCE CAPTURE ON IDS			
56	09/15/2005	DATE FORWARDED TO EXAMINER			
55	09/08/2005	RESPONSE AFTER NON-FINAL ACTION			
54	08/05/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
53	08/03/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	06/10/2005	MAIL NON-FINAL REJECTION			
51	06/07/2005	NON-FINAL REJECTION			
50	04/09/2005	DATE FORWARDED TO EXAMINER			
49	03/28/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	04/09/2005	DATE FORWARDED TO EXAMINER			
47	03/28/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		59	38
46	04/09/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	03/28/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	03/28/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	02/08/2005	MAIL ADVISORY ACTION (PTOL - 303)			
42	02/07/2005	ADVISORY ACTION (PTOL-303)			
41	02/01/2005	DATE FORWARDED TO EXAMINER			
40	01/24/2005	AMENDMENT AFTER FINAL REJECTION			
39	01/24/2005	WORKFLOW INCOMING AMENDMENT IFW			
38	10/28/2004	MAIL FINAL REJECTION (PTOL - 326)			
37	10/26/2004	FINAL REJECTION			
36	10/23/2004	DATE FORWARDED TO EXAMINER			

35	10/08/2004	SUPPLEMENTAL RESPONSE		60	31
34	10/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
33	01/29/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
32	08/19/2004	DATE FORWARDED TO EXAMINER			
31	08/09/2004	RESPONSE AFTER NON-FINAL ACTION		129	27
30	08/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	07/19/2004	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
28	07/16/2004	DATE FORWARDED TO EXAMINER			
27.1	04/02/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
27	04/02/2004	RESPONSE AFTER NON-FINAL ACTION			
26	01/05/2004	MAIL NON-FINAL REJECTION			
25	12/24/2003	NON-FINAL REJECTION			
24	10/30/2003	DATE FORWARDED TO EXAMINER			
23	10/24/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
22	10/24/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	07/25/2003	MAIL RESTRICTION REQUIREMENT	621		-1
20	07/24/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
19	06/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
18	05/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	02/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
16	08/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
15	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
11.7	03/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10.7	02/09/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/09/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	05/17/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	05/04/2001	TRANSFER INQUIRY			

7	05/03/2001	TRANSFER INQUIRY			
6	02/13/2001	APPLICATION DISPATCHED FROM OIPE			
5	02/13/2001	APPLICATION IS NOW COMPLETE			
4	10/30/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/28/2000	CORRESPONDENCE ADDRESS CHANGE			
2	09/29/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/11/2000	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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PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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OFFICE OF PETITIONS

In re Application of :
Gibbons, et al. : DECISION ON PETITION
Application No. 09/659,643 :
Filed: September 12, 2000 :
Atty. Dkt. No.: AM100081 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed June 27, 2005. Notice of Abandonment was mailed January 13, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (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; 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).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application will be forwarded to Technology Center 1600 for further processing.

Application No. 09/659,643

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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1177 AVENUE OF THE AMERICAS
41ST FLOOR
NEW YORK, NY 10036-2714

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OFFICE OF PETITIONS

In re Patent No. 6,934,342	:	
Issue Date: August 23, 2005	:	
Application No. 09/659,767	:	ON PETITION
Filed: September 11, 2000	:	
Attorney Docket No. G0126.0189	:	

This is a decision on the petition under 37 CFR 1.183, filed December 12, 2005, which is being treated under 37 CFR 3.81(b), to accept the addition of the second assignee on the front page of the above-identified patent by way fo a Certificate of Correction.

The petition is GRANTED.

The patent is being referred to the Certificates of Correction Branch for issuance of a Certificate of Correction to include the second assignee **Anritsu Corporation.**

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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Paper No.

Martin G Linihan Esquire
Hodgson Russ Andrews Woods &
Goodyear LLP
One M&T Plaza Suite 2000
Buffalo, NY 14203-2391

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Patent No. 6,937,748	:	LETTER REGARDING
Schneider et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 30, 2005	:	and
Application No. 09/659,772	:	NOTICE OF INTENT TO ISSUE
Filed: September 11, 2000	:	CERTIFICATE OF CORRECTION
Atty Docket No. 13325.0030	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT PERIOD filed September 21, 2005, pursuant to patentees' duty of good faith and candor to the Office. Patentees disclose that the patent term adjustment under 35 U.S.C. 154(b) of 426 days indicated on the face of the patent is longer than appropriate.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred eighty-eight **(388)** days.

On August 30, 2005, the application matured into U.S. Patent No. 6,937,748, with a revised patent term adjustment of 426 days. Patentees disclose that the patent term adjustment should have been further reduced for applicant delay in responding to the Notice to File Missing Parts of Application mailed October 30, 2000. Their response was not filed until March 6, 2001.

A review of the record reveals that patentees are correct. A complete and proper response to the Notice to File Missing Parts mailed October 30, 2000 was not received until March 6, 2001. This was outside the three-month period set forth in 37 CFR § 1.704(b). Accordingly, a period of reduction of 35 days for the period from January 31, 2001 to March 6, 2001 should have been entered.

In addition, the record reveals that a period of reduction of 3 days should have been entered for applicant delay in responding to the notice of allowance. The notice of allowance was mailed on January 24, 2005; however, the issue fee payment was not received until April 27, 2005, three months and 3 days later.

In view thereof, the patent should have issued with a revised patent term adjustment of three hundred eighty-eight (388) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705. The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED EIGHTY-EIGHT (388)** days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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Young & Thompson
745 South 23rd Street
Arlington, VA 22202

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OFFICE OF PETITIONS

In re Patent No. 6,880,027	:	
Issue Date: April 12, 2005	:	
Application No. 09/659,779	:	ON PETITION
Filed: September 11, 2000	:	
Attorney Docket No. 2667/HEC/US/MH	:	

This is a decision on the petition under 37 CFR 1.182, filed May 10, 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.

While petitioner asserts that the original Letters Patent had not been received, no evidence to support such a statement has been provided.

Petitioner should also note that the fee required for the petition is currently $400, instead of $130. In view thereof, an additional $270 will be charged to petitioner's deposit account in due course.

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

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (703) 746-4642)

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OFFICE OF PETITIONS

ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of	:
Nadarajah Asokan et al	:
Application No. 09/659,781	: DECISION GRANTING PETITION
Filed: September 11, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 017.38633X00	:

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 30, 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]

There is no indication that petitioner herein, Mr. G. Peter Albert, Jr., was ever given a power of attorney to prosecute this application. However, in accordance with 37 CFR 1.34, the signature of Mr. Albert, Jr., 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. If Mr. Albert, Jr., 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 petitioner. All

---

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

future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record until otherwise properly instructed.

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

This matter is being referred to Technology Center AU 3621 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

cc:

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764

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)
6774262	2004-08-10	09659821	2000-09-11	197240USMF

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2008-11-17
Name	Marvin J. Spivak	Registration Number	24913

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6774262
Issue Date: August 10,2004
Application No. 09659821
Filed: September 11,2000
Attorney Docket No. 197240US0

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

This is a decision on the electronic petition, filed November 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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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Sheryl Sue Halloway
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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JUL 30 2008

In re Application of	:	
J. Leslie Vogel, III	:	
Application No. 09/659,864	:	DECISION ON PETITION
Filed: September 12, 2000	:	
Attorney Docket No. 0044860.P2436	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of October 19, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 20, 2007. A Notice of Abandonment was mailed on March 7, 2008. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) fee of $810 and submission (an amendment), (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being 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 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2134 for appropriate action by the Examiner in the normal course of business on the reply received April 16, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Chui-Kiu Teresa Wong
Blakely, Sokoloff, Taylor &
Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: J. Leslie Vogel III	: DECISION ON REQUEST FOR
Patent Number	: 7596223	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/659,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1303** 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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Paper No. 5

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

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SEP 21 2001

OFFICE OF PETITIONS

In re Application of	:	
Hartmud Terletzki, et al.	:	
Application No. 09/659,872	:	ON PETITION
Filed: September 13, 2000	:	
Attorney Docket No. 00 P 7882 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 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 November 16, 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 January 17, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl 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.

Cheryl 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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Paper No. 6

MARTIN J. HIRSCH
MARSHALL, O'TOOLE, GERSTEIN, MURRAY & BO
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO , IL 60606-6402

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of
Chamberlain et al.
Application No. 09/659,924
Filed: September 12, 2000
For: Gaming machine with hopper and printer

DECISION
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 6, 2001, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application, mailed November 13, 2000, which set a two (2) month regulatory period to reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 14, 2001.

The petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the submission of a substitute oath or declaration, has paid the petition fee and the surcharge associated with the late filing of a oath or declaration, and made the proper statement of unintentional delay

As to the instant application, the changes in Power of Attorney and Correspondence Address have been entered and made of record.

The application file is being returned to OIPE for completion of pre-examination processing, including review of the response to the Notice to File Missing Parts of Application.

Telephone inquiries specific to this decision should be directed towards Petitions Attorney Paul Shanoski at (703) 305-0011.

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

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KING & SPALDING LLP (SAIC CUSTOMER NUMBER)
ATTN: GEORGE T. MARCOU
1700 PENNSYLVANIA AVE, NW
SUITE 200
WASHINGTON, DC 20006

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AUG 15 2008

In re Application of	:	
Richard T. Antony	:	
Application No. 09/659,948	:	DECISION ON PETITION
Filed: September 12, 2000	:	
Attorney Docket No. SAIC0084	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before October 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 27, 2007. Accordingly, the date of abandonment of this application is October 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: Steven G. Lemay	: DECISION ON REQUEST FOR
Patent Number	: 6802778	: RECALCULATION of PATENT
Issue Date	: 10/12/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/659,955	: OF WYETH
Filed	: 09/12/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOCKET ADMINISTRATOR (ROOM 3C-512)
LUCENT TECHNOLOGIES, INC.
600 MOUNTAIN AVENUE
PO BOX 636
MURRAY HILL, NJ 07974-0636

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Farooq Ullah Khan, et al.	:	
Application No. 09/660,098	:	DECISION ON PETITION
Filed: September 12, 2000	:	
Attorney Docket No. 2-52	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 10, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2637 for appropriate action by the Examiner in the normal course of business on the reply received

Irvin Dingle
Petitions Examiners
Office of Petitions

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Keith E. Henry, et al. :
Application No. 09/660,099 :
Filed: September 12, 2000 :
Attorney Docket No. DB000817-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 12, 2002. A Notice of Abandonment was mailed on May 22, 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 Revocation of Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 4, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 1600, Art Unit 1621 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 4

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APR 2 4 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

In re Application of:
Losee et al.
Application No. 09/660,105
Filed: September 12, 2000
For: **METHOD FOR REDUCING DARK CURRENT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special, filed March 25, 2003, under MPEP 708.01 (I), delay in prosecution.

For a petition to make special under MPEP § 708.01, (I), the application must be pending for more than five years, including those, which, by relation to a prior United States application, have an effective pendency of more than five years. See MPEP § 707.02.

The application has been pending for less than five years, "*over 2-1/2 years old*" according to the Applicant. Applicant may consider requesting special status under MPEP § 708.02, VIII.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Kenneth A. Wieder

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

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Paper No. 22

MCKENNA LONG & ALDRIDGE LLP
1900 K Street
Washington, DC 20006

MAY 19 2005

In re Application of:
Dong Yeung Kwak
Serial No.: 09/660,186
Filed: September 12, 2000
Attorney Docket No.: 8733.298.00

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on October 29, 2004. There is no fee for this petition.

The petition is **GRANTED**.

On July 15, 2004, the Board of Patent Appeals and Interferences ("the Board") rendered a decision affirming the final rejection of all the claims pending in the application. On October 20, 2004, a Notice of Abandonment was mailed indicating that the application was abandoned in view of the decision by the Board rendered on July 15, 2004 and because the period for seeking court review of the decision had expired and there were no allowed claims.

Petitioner asserts that a Request for Continued Examination (RCE) and Amendment After RCE were timely filed on September 15, 2004. To support this assertion, petitioner has submitted a copy of the Amendment After RCE and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the RCE and Amendment After RCE on September 15, 2004. Unfortunately, a copy of the RCE itself was not found to be submitted with the petition, although so stated in the petition. A call was made to petitioner on May 13, 2005 by Special Programs Examiner Edward Westin requesting that petitioner submit a copy of the RCE via facsimile transmission. A copy of the RCE was so submitted on May 16, 2005.

A review of the application file record reveals that the RCE and Amendment After RCE having been acknowledged on the stamped return postcard as being received in the United States Patent and Trademark Office (USPTO) on September 15, 2004 are 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Accordingly, it is concluded that the RCE and Amendment after RCE were timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed October 20, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the Amendment after RCE filed with the petition and the copy of the RCE submitted by facsimile transmission on May 16, 2005 are accepted since the RCE and Amendment After RCE originally submitted are apparently lost. It is noted that a check for the fee for the RCE was received on September 15, 2004 and posted on September 16, 2004.

The application file is being forwarded to the Technology Center 2800 support staff for completing the processing of the RCE and for entry of the amendment. The application file will then be forwarded to the examiner for prompt appropriate action.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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In re Patent No. 6355436
Issue Date: March 12,2002
Application No. 09660189
Filed: September 12,2000
Attorney Docket No. 056297-5004US

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

This is a decision on the electronic petition, filed April 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 27,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6355436	2002-03-12	09660189	2000-09-12	AFFY-004/02US 011851-2033

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 S. Tuscan/	Date (YYYY-MM-DD)	2010-04-27
Name	Michael S. Tuscan	Registration Number	43210

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

SKJERVEN MORRILL
25 METRO DRIVE
SUITE 700
SAN JOSE, CA 95110

COPY MAILED

NOV 1 5 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Michael D. Camras et al	:	
Application No. 09/660,317	:	
Filed: September 12, 2000	:	
Attorney Docket No. M-8633 US	:	

This is a decision on the petition, filed November 12, 2002, under 37 CFR 1.313(c), which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 17, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Rachel V. Leiterman appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular

---

[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.**

States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Ms Leiterman 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 Ms Leiterman, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

After receipt of the application in the Office of Petitions, the application will be forwarded to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks

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

cc: PATENT LAW GROUP
2635 NORTH FIRST ST
SUITE 223
SAN JOSE, CA 95134

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/1/2006

TO SPE OF : ART UNIT 3700 (3721)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,868,851

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 new drawings as requested in C of C?

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:

DRAWINGS SUBMITTED 3/4/05 SHOULD HAVE BEEN USED. CORRECTION IS APPROPRIATE.

RINALDI I. RADA
SUPERVISORY PATENT EXAMINER
GROUP 3700

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: #21

DATE : 1-7-2005

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: RE38,618

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:

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : RE 38,618 E
DATED : October 12, 2004
INVENTOR(S) : West

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

Column 1,
Line 5, please insert the following paragraph:
-- Notice: More than one reissue application has been filed for the reissue of U.S. Patent No. 5,805,233. The reissue applications are Application Nos. 09/660,435 (the basis for the present reissue RE 38,618) and 10/851,979, which is a continuation reissue application of Application No. 09/660,435, now RE 38,618. --

Signed and Sealed this

First Day of March, 2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-07

Paper No: __

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SEP 1 0 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Iwamura	:	DECISION
Application No.: 09/660,444	:	
Filing Date: 12 September, 2000	:	
Attorney Docket No. 35.C14834	:	

This is a decision on the petition filed on 7 March, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

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

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

BACKGROUND

The record reflects that:

---

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

- Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 16 November, 2005, with reply due absent an extension of time on or before 16 February, 2006;

- the application went abandoned by operation of law after midnight on 16 February, 2006;

- the Office mailed the Notice of Abandonment on 9 February, 2007;

- on 7 March, 2007, Petitioner filed the instant petition instant petition with, *inter alia*, an averment that he did not receive the final Office action in question, and while Petitioner states that a "review" was made of the matter, **Petitioner does not explicitly state that he made a "search" of the file and docket records** to ascertain that the final Office action in question was not present and did not appear therein/thereon and thus he concluded that the paper had not been received–for that reason **Petitioner is now to understand that his signed petition filed herein is read to state that he made a search of his file(s) and his docket records in this matter and Petitioner further is reminded that under his duty of candor to the Office he must immediately inform the Office if this is a mis-appreciation and/or misreading of his statement** (see the Manual of Patent Examining Procedure provisions discussed below)–and with documentation in support thereof included.

The record reflects not a single Status Inquiry made/filed of record by Petitioner following his filing of an amendment on 22 August, 2005, until he filed the instant petition;

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application.

If one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always 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 must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to

the Office the continuing duty to disclose.[2]

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]

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

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

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

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

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

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

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

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

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

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

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

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

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to 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.[9]

The commentary at MPEP §711.03(c) provides:

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

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

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

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

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

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

* * *

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

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

* **

<u>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</u> 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.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 9 February, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2600 for further processing in due course, **including the remailing of the final Office action of 16 November, 2005, and resetting of the reply date therefor**.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,444	09/12/2000	Keiichi Iwamura	35.C14834	6601

5514 7590 11/16/2005

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

EXAMINER
EDWARDS, PATRICK L

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 11/16/2005

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

Office Action Summary	Application No.	Applicant(s)
	09/660,444	IWAMURA, KEIICHI
	Examiner	Art Unit
	Patrick L. Edwards	2621

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 7-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 7-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ 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:

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)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. The response received on 08-22-2005 has been placed in the file and was considered by the examiner. An action on the merits follows.

Response to Arguments

2. The arguments filed on 08-22-2005 have been fully considered. A response to these arguments is provided below.

35 USC 112, Second Paragraph Rejections

Summary of Argument:

Applicant alleges that the amendment to claim 3 has cleared up the previous indefiniteness problems'

Examiner's Response:

The examiner agrees. The previous 112(2) rejecion is hereby withdrawn.

Prior Art Rejections

Summary of Argument:

Applicant alleges that Adler fails to disclose or suggest lossless-compressing of at least a first predetermined bit plane of an original image. Specifically, applicant alleges that "in the system of Adler the image data prior to extraction of the hash cannot be obtained from the data from which the hash was extracted."

Examiner's Response:

The examiner disagrees. The hash function disclosed in Adler qualifies as "lossless compression." Hash tables are well known as means for implementing lossless compression.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, and 8-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Adler et al (USPN 6,275,599).

With respect to claim 1, which is representative of claim 8, Adler discloses inputting an original image which is constructed of a plurality of bit planes (Adler col. 3 line 63 – col. 4 line 1).

Adler further discloses compressing at least a first predetermined bit plane of the original image data to form losslesscompression data (Adler col. 6 lines 32-67: The reference describes computing a 'reduced data set' (i.e. compression data)).

Adler further discloses embedding the compression data into the first predetermined bit plane of the original image (Adler col. 7 lines 28-37: The reference describes embedding this compression data back into the original image. The reference further discloses that this data is embedded back into the original image at original predetermined bit plane (Adler col. 4 lines 1-3)).

With respect to claim 2, the first predetermined bit plane from the Adler reference (as discussed immediately above) is a lower bit plane (Adler col. 4 lines 1-3: The reference describes "least significant numbers" (i.e. lower bit plane)).

With respect to claim 3, Adler discloses embedding additional information into the second predetermined bit plane or the original image (Adler col. 7 lines 17-27: The reference describes embedding additional information (i.e. owners name, time, etc.) into a second predetermined bit plane of the original image (i.e. the 104 spare bits).

With respect to claim 4, Adler discloses the possibility that the additional information can be embedded in a most significant number (i.e. upper bit plane) (Adler col. 4 lines 3-5).

With respect to claim 21, Adler discloses an invisible watermark (Adler col. 4 lines 1-2).

With respect to claim 10, which is representative of claim 16, all of the limitations except one have been discussed above. The additional limitation that the compression data is not just a compression of a first predetermined bit plane, but rather is a compression of both a first predetermined bit plane and a second predetermiend bit plane is further disclosed in Adler. As was stated above, Adler discloses that the embedded watermark is a modification of all or part of the least significant numbers (Adler col. 4 lines 1-3). Since this term is pluralized, we can conclude that the compression is performed on at least two predetermined bit planes.

With respect to claim 22, Adler discloses both an invisible watermark and an "image dependent" (i.e. visible) watermark (Adler col. 4 lines 1-7).

With respect to claim 13, which is representative of claim 17, all of the limitations of the claim have been discussed above except for the additional limitation of "encrypting data showing a result of the compression in said compressing means." Adler discloses this encryption step (Adler col. 4 lines 5-7).

With respect to claims 11 and 14, Adler discloses holding information representing the first predetermined bit plane, as key information (Adler col. 5 lines 18-23: The references describes the key information. It follows that the reference inherently discloses a holding means for holding this key information, since it inherently has to be stored (held) somewhere.

With respect to claim 12, 15, and 20, Adler discloses reversible compression (Adler col. 5 lines 50-59).

With respect to claims 9, 18, and 19, Adler inherently discloses a memory for storing a computer executable program which performs a method (Adler col. 1 line 39: The references describes the field of endeavour as "computer imaging". Thus, the reference inherenty discloses storing a program for executing the steps of a method on a computer processor.)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adler as applied to claim 1 above, and further in view of Dumoulin (USPN 6,571,020). The arguments as to the relevance of Adler as applied above are incorporated herein.

With respect to claim 7, Adler discloses a color image as an original image (Adler col. 2 line 49) but fails to expressly disclose that this color image is an RGB image. Dumoulin, however, discloses an RGB image (Dumouline col. 6 lines 13-23). It would have been obvious to one reasonably skilled in the art at the time of the invention to modify Adler to include RGB images as taught by Dumoulin. Such a modification would have allowed for the use of an image color format which is displayed on most computer monitors.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick L Edwards whose telephone number is (571) 272-7390. The examiner can normally be reached on 8:30am - 5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Mancuso can be reached on (571) 272-7695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

Patrick L Edwards

ple

Art Unit 2621

ANDREW W. JOHNS
PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071129

DATE : November 29, 2007

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction on Patent No.: 6340392

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

VT

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:

MICHAEL BARR
SUPERVISORY PATENT EXAMINER
SPE: Michael Barr **Art Unit** 1792

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 6, 2007

Patent No. : 7226446 B1
Ser. No. : 09/660466
Inventor(s) : Mody et al.
Issued : June 5, 2007
Title : **SURGICAL MICROWAVE ABLATION ASSEMBLY**
Docket No. : GUID-118

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.

Comparison of the patent to Col. 32, line 63, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE CA 94086

UNITED STATES 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. 6541106
Issue Date: April 1,2003
Application No. 09660483
Filed: September 12,2000
Attorney Docket No. REC-3631

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

This is a decision on the electronic petition, filed March 30,2009 ,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 30,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6541106	2003-04-01	09660483	2000-09-12	P09445US00/RFH

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	/Ross F. Hunt, Jr./	Date (YYYY-MM-DD)	2009-03-30
Name	Ross F. Hunt, Jr.	Registration Number	24082

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Qwest Communications International, Inc.
Law Department Intellectual Property Group
180 California Street, Suite 3800
Denver, Colorado 8020

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JUL 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	LETTER
Hansen, Quintanar, and Morrison	:	AND
Application No. 09/660,785	:	NOTICE OF ABANDONMENT
Filed: September 13, 2000	:	
Attorney Docket No. 1692	:	
For: METHOD AND SYSTEM FOR ONLINE MANAGEMENT	:	

A petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on April 27, 2001.

The petition was filed in response to a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed October 27, 2000, which indicated that a signed oath or declaration was missing and also that a surcharge of $130.00 was due, consequently. The Notice set forth a period for reply of two months. On April 27, 2001, in response to the Notice, petitioner filed the petition along with a declaration of relevant facts and a "Declaration for Patent Application." Petitioner also remitted the $130.00 surcharge.

Petitioner is advised, however, that an extension of time within the fourth month is necessary in order for the petition to be considered a timely response to the Notice. The Notice allowed two months to file a reply, but advised that extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). It is noted that petitioner authorized the Office to charge any fees associated with obtaining an extension of the time set for reply to deposit account 21-0456. On July 5, 2001, the Office attempted to charge deposit account 21-0456 $1,390.00, which is the fee associated with an extension of time within the fourth month. See 37 CFR 1.17(a)(4). The Office was unable to secure the required amount, however, because the balance in deposit account 21-0456 was $353.50 at the time the Office attempted the transaction. Consequently, petitioner did not obtain the extension of time within the fourth month necessary to make the petition filed April 27, 2001, timely. The application is, therefore, abandoned as of December 28, 2000.

Under the circumstances of this application, petitioner must file a petition to revive under 37 CFR 1.137 and pay the proper petition fees within **ONE (1) month** of this decision before the petition under 37 CFR 1.47 may be addressed on its merits. No extensions of time are

permissible. A petition under 37 CFR 1.137(b) is suggested unless petitioner can demonstrate that petitioner was "unavoidably" prevented from filing a timely response to the Notice of April 27, 2001. The petition under 37 CFR 1.47 will remain in the file until such time as petitioner has filed a grantable petition to revive under 37 CFR 1.137.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries should be directed to Kenya McLaughlin, Petitions Attorney, at (703) 305-0010.

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. 11

QWEST COMMUNICATIONS INTERNATIONAL INC
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER CO 80202

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OCT 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Hansen, et al. :
Application No. 09/660,785 : ON PETITION
Filed: September 13, 2000 :
Attorney Docket No. 1692 :

A reconsideration petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on July 30, 2002 (certificate of mailing date September 5, 2001).

A review of the file reveals that on October 27, 2000, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit the required payment of a $130.00 surcharge under 37 CFR 1.16(e) and an executed oath or declaration

On April 27, 2001, a petition for a four month extension of time and authorization to charge the required fee, a partially executed declaration, the surcharge, the petition fee, and the instant petition were filed.

As stated in the July 19, 2001 dismissal of the April 27, 2001 petition under 37 CFR 1.147(a), although petitioner filed a petition under 37 CFR 1.47(a) on July 24, 2001, petitioner did not have enough money in petitioner's deposit account to pay for the $1,390.00 4 month extension of time fee. Accordingly, **this application was properly held abandoned as of December 28, 2000.**

Under the circumstances of this application, petitioner must file a petition to revive under 37 CFR 1.137 and pay the proper petition fee within **ONE (1) month** of this decision before the petition under 37 CFR 1.47 may be addressed on its merits. No extensions of time are permissible. Unless petitioner can demonstrate that petitioner was "unavoidably" prevented from submitting a proper reply to the Notice, a petition under 37 CFR 1.137(b) is suggested. The petition under 37 CFR 1.47 will remain in the file until such time as petitioner has filed a grantable petition to revive under 37 CFR 1.137.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions/ E. Shirene Willis

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosures: copy of July 19, 2001 dismissal

blank copy of PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

QWEST COMMUNICATIONS INTERNATIONAL INC
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER CO 80202

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Hansen, et al.	:	
Application No. 09/660,785	:	ON PETITION
Filed: September 13, 2000	:	
Attorney Docket No. 1692	:	

This decision addresses the petition to revive under 37 CFR 1.137(b) and the petition under 37 CFR 1.47(a) to accord Rule 47 status to the above-identified application.

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

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

A review of the file reveals that on October 27, 2000, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit the required payment of a $130.00 surcharge under 37 CFR 1.16(e) and an executed oath or declaration On April 27, 2001, a petition for a four month extension of time and authorization to charge the required fee, a partially executed declaration, the surcharge, the petition fee, and the instant petition were filed.

As stated in the July 19, 2001 dismissal of the April 27, 2001 petition under 37 CFR 1.147(a), although petitioner filed a petition under 37 CFR 1.47(a) on July 24, 2001, petitioner did not have enough money in petitioner's deposit account to pay for the $1,390.00 4 month extension of time fee. Accordingly, this application was properly held abandoned as of December 28, 2000.

Petition under 37 CFR 1.137(b)

Petitioners have satisfied the requirements of a grantable petition under 37 CFR 1.137(b). Petitioners have supplied a petition, the petition fee, an acceptable declaration, and a statement that the entire delay in responding to the outstanding requirements was unintentional.

Accordingly, the petition to revive is granted.

Petition under 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor, Benjamin E. Hansen, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Chad S. Hilyard establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the written request that he sign the declaration and a telephone message. 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.

Regarding finances, it appears that petitioners have been charged the $130.00 Rule 47 petition fee twice. Accordingly, petitioners' deposit account, No. 2-1430 will be refunded one of these fees.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PAUL A. MENDONSA
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

COPY MAILED

MAY 23 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Sunil Tomar et al	: DECISION ON PETITION
Application No. 09/660,837	: REFUSING TO ACCORD
Filed: September 14, 2000	: STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 005100.P001	:

This is in response to the petition under 37 CFR 1.47(a), filed January 8, 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 nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks item (1) set forth above.

As to item (1), the petitioner merely states that he directed his adminstrative assistant, Deborah L. Higham, to send by Certified Mail to nonsigning inventor Neelamraju an "Inventor Declaration and Power of Attorney form and an Assignment" on two separate occasions, but the forms were never returned. However, there is no indication that these mailings included a copy of the application papers (specification, claims and drawings). Therefore, unless

nonsigning inventor Srinivasarao Neelamraju was presented with a copy of the application papers, Mr. Neelamaraju could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant has failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. Did inventor Neelamaraju receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). While the petition indicates that the inventor declaration and assignment forms were mailed by certified mail, no evidence has been presented that applicant did in fact receive these two mailings. Therefore, unless petitioner can show that a copy of the application papers was presented to inventor Neelamraju, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Neelamraju's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made.** Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

PAUL A. MENDONSA
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
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MAY 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	: SUBSTITUTE
Sunil Tomar et al	: DECISION ON PETITION
Application No. 09/660,837	: REFUSING TO ACCORD
Filed: September 14, 2000	: STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 005100.P001	:

SUBSTITUTE DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed January 8, 2001. The decision mailed May 23, 2001 is vacated.

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 nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), the petitioner merely states that he directed his adminstrative assistant, Deborah L. Higham, to send by Certified Mail and Federal Express to nonsigning inventor Neelamraju an "Inventor Declaration and Power of Attorney

form and an Assignment" on two separate occasions, but the forms were never returned. However, there is no indication that these mailings included a copy of the application papers (specification, claims and drawings). Therefore, unless nonsigning inventor Srinivasarao Neelamraju was presented with a copy of the application papers, Mr. Neelamaraju could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant has failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. Did inventor Neelamaraju receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). While the petition indicates that the inventor declaration and assignment forms were mailed by certified mail and Federal Express, no evidence has been presented that applicant did in fact receive these two mailings. Therefore, unless petitioner can show that a copy of the application papers was presented to inventor Neelamraju, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Neelamraju's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made.** Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2) above, a declaration in compliance with 37 CFR 1.63 and 1.64 has not been presented. In this regard, the declaration fails to set forth the citizenship of nonsigning, joint inventor Srinivasarao Neelamraju. Note MPEP 409.03(a); MPEP

602, and MPEP 605.01. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 10

DAVID L. SOLTZ
CIENA CORPORATION
LEGAL DEPARTMENT
1201 WINTERSON ROAD
LINTHICUM, MD 21090

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NOV 0 5 2001

OFFICE OF PETITIONS

In re Application of
Sunil tomar et al
Application No. 09/660,837
Filed: September 14, 2000
Attorney Docket No. 501

DECISION DISMISSING PETITION FOR RECONSIDERATION UNDER 37 CFR 1.47(a)

This is a decision on the petition filed October 1, 2001, requesting reconsideration of a decision mailed May 29, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application. The request for reconsideration was accompanied by a declaration signed by previously nonsigning inventor Srinivasarao Neelamraju.

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 nonsigning inventor complying with the provisions of 37 CFR 1.63 and 1.64. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A review of the file record discloses that a Declaration and Power of Attorney for Patent Application was filed with the application papers on September 14, 2000, which declaration set forth all the named inventors and was signed by all the named inventors except inventor Srinivasarao Neelamraju. On October 1, 2001, the Office received a Declaration and Power of Attorney signed by previously nonsigning inventor Neelamraju, but which fails to set forth the names of the other named inventors.

The declarations of record lack compliance with § 1.63(b)(2), for as of yet, no inventor has executed a declaration naming all inventors. See MPEP 602, which states:

> Where joint inventors execute separate oaths or declarations each oath or declaration should make reference to the fact that the affiant is a joint inventor together with the other joint inventors indicating them by name.

Since the declaration executed by inventor Neelamraju does not name the other joint inventors and since the declaration executed by inventor Neelamraju states that he is "an original and first of the subject matter which is claimed," the declaration is considered to be defective. In view thereof, inventor Neelamraju has not joined in the filing of the instant application. Accordingly, a substitute declaration executed by joint inventor Neelamraju and setting forth the other named inventors is required to be submitted within the time period specified above to avoid the abandonment of this application

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

CIENA CORPORATION
1201 WINTERSON ROAD
LINTHICUM, MD 21090

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MAY 1 5 2002

OFFICE OF PETITIONS

In re Application of
Sunil Tomar et al
Application No. 09/660,837
Filed: September 14, 2000
For: METHODS AND APPARATUSES FOR SERIAL TRANSFER OF SONET FRAMED DATA BETWEEN COMPONENTS OF A SONET SYSTEM

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on March 22, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed November 5, 2001, included a Declaration signed by previously nonsigning inventor Srinivasarao Neelamraju 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 Technology Center AU 2633 for examination in due course.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT - 9 2003

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

In re Application of	:
William Pollack	:
Serial No.: 09/660,862	: PETITION TO MAKE SPECIAL
Filed: September 13, 2000	:
Attorney Docket No.: 021199-000100	:

This is in response to applicants' petition filed September 15, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for further action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

Application/Control Number: 09/660,876

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

Philmore H Colburn II
Cantor Colburn LLP
55 Griffin Road South
Bloomfield CT 06002

In re Application of Michael S.Tignor et al. Application No. 09/660,876 Filed: September 13, 2000 Attorney Docket No. GEN-0213 For: WORLD WIDE WEB ENABLED AND DIGITAL RATING PLUG	: : : : : :	DECISION ON REQUEST UNDER 37 CFR § 1.48 (a)

This is a decision on the request to correct inventorship under 37 C.F.R. § 1.48(a) filed on February 8, 2002.

The request is **GRANTED**.

In view of the papers filed February 8, 2002 (certificate of mailing November 7, 2001), it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of David Fletcher. The inventorship of this application is now listed as Michael Tignor, Patrick Salas, Craig B. Williams, Michael B. Bradley and David Fletcher.

Gregory J. Toatley, Jr., Primary Examiner
Technology Center Art Unit 2836

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Paper No. 10

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005

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APR 02 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of)
AKAHORI)
Application No. 09/660,884)
Filed: September 12, 2000)
Attorney Docket No. 08038.0038)

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on March 5, 2002, and supplemented on March 29, 2002, requesting that the period for reply set forth in the Office action mailed on January 17, 2002, be reset to run from the date on which the Office action was actually received at the correspondence address of record.

The petition is **granted**.

Petitioner states that the Office action in question was received at the correspondence address of record on February 20, 2002. The petition includes a copy of the cover sheet of the Office action having a date of receipt of "FEB 20 2002" stamped thereon

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.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on January 17, 2002, is hereby reset to run FROM THE RECEIPT DATE OF February 20, 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.

Clayton E. Laballe
For Edward Glick, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-4858

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

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOMISABURO YAMAGUCHI
and
ASAKAWA TETSUYA

MAILED
MAR 29 2004
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2003-1192
Application No. 09/660,888

ON BRIEF

Before OWENS, WALTZ, and TIMM, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants have filed appeals in two related applications, this application and Application No. 09/660,907 (Appeal No. 2003-1191). We have jurisdiction over both appeals pursuant to 35 U.S.C. § 134 and we will decide them concurrently in separate opinions. The issues in each appeal are much the same. We will refer to the opinion in Appeal No. 2003-1192 for a more detailed discussion of those issues of interest here that are treated therein. The appeal herein involves claims 1-11 and 13-21 which are all the claims pending in this application.

INTRODUCTION

The claims in this and the related application are each directed to a receptacle connector. In the related application on appeal, Appellants claim the combination of the insulative housing of the connector with an overlying metal shell member. In the instant application, the claims further limit the connector to one with a retainer shield in addition to the insulative housing and metal shell member.

Claim 17 is illustrative of the subject matter on appeal:

17. A receptacle connector for providing electrical connection between an opposing plug connector with a circuit board, the opposing connector having an insertion end for mating with the receptacle of said connector, comprising:

an insulative housing, the connector housing supporting a plurality of conductive terminals, the connector housing having distinct top and bottom wall portions defining an interior receptacle in which said terminals are supported, the receptacle being sized to receive said plug connector insertion end when said plug connector is mated to said receptacle connector, the housing not having any sidewalls interconnecting the top and bottom wall portions together;

a retainer shield for shielding a portion of said connector housing and for engaging a plurality of exterior surfaces of said plug connector insertion end, the retainer shield including a body portion that is bent to overlie at least three distinct sides of said connector housing, said retainer shield further including at least two retention members formed therewith and projecting into said connector housing interior receptacle, said two retention members being oriented in distinct vertical horizontal planes so as to exert a retaining force from two different directions on two different surfaces of said plug connector insertion end when inserted into said receptacle, and

a metal shell extending partially over the retainer shield, the retainer shield being retained in its place upon the housing by the metal shell.

The Examiner maintains rejections under 35 U.S.C. § 103(a) and, additionally, maintains a rejection under the judicially created doctrine of obviousness-type double patenting. As evidence in support of these rejections, the Examiner relies upon the following prior art references as well as the claims on appeal in the other application:

Matsunuma et al. (Matsunuma)	5,993,258	Nov. 30, 1999
Futatsugi et al. (Futatsugi)	6,077,120	June 20, 2000
Wu et al. (Wu)	6,086,421	July 11, 2000
Wang	6,095,869	Aug. 1, 2000

All the claims stand rejected under 35 U.S.C. § 103(a). Claims 1-11, 13, 14, and 21 stand rejected as being unpatentable over Wu in view of Futatsugi and further in view of Wang. Claims 17, 18, and 20 stand rejected as being unpatentable over Futatsugi in view of Matsunuma and Wang. Claim 19 stands rejected as being unpatentable over Futatsugi, Matsunuma, and Wang and further in view of Wu.

Claims 1-11 and 13-21 are additionally provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 09/660,907 in view of Futatsugi.

We reverse with respect to the rejections under 35 U.S.C. § 103(a), but affirm with respect to the provisional obviousness-type double patenting rejection. Our reasons follow.

OPINION

Obviousness

Just as in Appeal No. 2003-1191, all the claims herein require the absence of sidewalls in the insulative housing. The Examiner acknowledges that neither of the primary references, Wu or Futatsugi, describe an insulative housing without sidewalls. We note that Futatsugi, like Wu, is directed to a shielded connector. Just as in the other appeal, the Examiner relies upon a finding that "Wang discloses a connector housing (20) not having any sidewall members to reduce the manufacture cost" and concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to form a housing without sidewalls as taught by Wang to reduce the manufacturing cost (Answer, p. 6 and p. 7). We conclude that the Examiner has failed to meet his burden in establishing a *prima facie* case of obviousness for the reasons we discussed in the opinion in Appeal No. 2003-1191.

A discussion of the other applied references is not required as they were not relied upon in a matter that cures the deficiencies of the rejections. We conclude that the Examiner has failed to establish a *prima facie* case of obviousness with respect to the subject matter of claims 1-11 and 13-21.

Obviousness-type Double Patenting

As noted by the Examiner, Appellants do not contest the rejection under the judicially created doctrine of obviousness-type double patenting (Answer, p. 9). We, therefore, summarily affirm with respect to this rejection.

CONCLUSION

To summarize, the decision of the Examiner to reject claims 1-11 and 13-21 under 35 U.S.C. § 103(a) is reversed, but the decision of the Examiner to reject claims 1-11 and 13-21 under the judicially created doctrine of obviousness-type double patenting is summarily affirmed.

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

AFFIRMED

TERRY J. OWENS Administrative Patent Judge	)
THOMAS A. WALTZ Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
CATHERINE TIMM Administrative Patent Judge	)

CT/jrg

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE, IL 60532

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HOLLYWOOD FL 33022-2480

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OFFICE OF PETITIONS

In re Application of
Godl et al.
Application No. 09/660,899
Filed: September 13, 2000
Attorney Docket No.: GR 98 P 1320

: ON PETITION

This is a decision on the petition under 37 CFR 1.55(a), filed April 28, 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 U.S.C. 119.

The priority papers are accepted as timely filed and have been placed of record in the file.

It is noted that the Patent may not include the claim for priority unless corrected by a certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323.

Telephone inquiries related to this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

PRICE GESS & UBELL
2100 S E MAIN STREET
SUITE 250
IRVINE, CA 92714

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Nishizato et al :
Application No. 09/661,026 : ON PETITION
Filed: September 13, 2000 :
Attorney Docket No. FUJ2-BM12 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 9, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2001.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MICHAEL A. DE SANCTIS
756 HARRISON ST.
DENVER CO 80206

In re Application of
Abraham R. Matthews et al. :
Application No. 09/661,130 : ON PETITION
Filed: September 13, 2000 :
Attorney Docket No. FORT-000300 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed March 6, 2006 to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned January 19, 2005 for failure to timely reply to the Final Office Action mailed October 18, 2004, which set a shortened statutory period of three months for reply. Accordingly, a Notice of Abandonment was mailed August 23, 2005.

Previous Attorneys of Record submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The petition fee and RCE fee have been charged to previous attorney of record's deposit account. A refund in the amount of $1020.00 has been credited to their deposit account for the three month extension of time request filed with the instant petition. Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time request was submitted with the petition on March 6, 2006 which was subsequent to the maximum period obtainable for reply, this fee is unnecessary.

---

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

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

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

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

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

The application is being forwarded to Technology Center 2144 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 23 2009

OFFICE OF PETITIONS

Bernhard Kreten
Weintraub Genshlea Chediak Sproule
400 Capitol Mall, 11th Floor
Sacramento, CA 95814

In re Patent No. 6,805,629	:	
Issue Date: October 19, 2004	:	
Application No. 09/661,163	:	ON PETITION
Filed: September 13, 2000	:	
Attorney Docket No. 30083.PA	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 20, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 20, 2008, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The current fee for a three and one-half year maintenance fee is $980.00. All fees paid on or after October 2, 2008 must be paid according to the current fee schedule. The additional fee of $50.00 will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

Carl Friedman
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 22313-145

JAN 18 2005

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JAN 18 2005

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TC 3600

Andre L Marais
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Inna Vogel et al. :
Application No. 09/661,168 :
Filed: September 13, 2000 :
For: MONITORING AND AUTOMATIC NOTIFICATION OF IRREGULAR ACTIVITY IN A NETWORK-BASED TRANSACTION FACILITY :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item B).

As to Item B), the reason "Discontinuation of the attorney/client relationship" is not appropriate since it is not clear that the client initiated the discontinuation, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 01/14/05

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DOUGHERTY CLEMENTS
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

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FEB 0 2 2006
OFFICE OF PETITIONS

In re Application of	:
Shivji, et al.	: DECISION ON PETITION
Application No. 09/661,203	:
Filed: September 14, 2000	:
Docket No.: 10.050.3	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 17, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed September 16, 2005. The Notice set a three month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (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; 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).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 9

Jeffrey A. Pyle
Williams, Morgan & Amerson, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

MAIL

NOV 2 6 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: William Bunton	)	
Application No. 09/661,214	)	
Filed: September 14, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD AND APPARATUS FOR	)	**WITHDRAWAL AS ATTORNEY**
TRANSFERRING DATA	)	

This is a decision on the Request To Withdraw from Representation filed September 24, 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: Michael F. Heim, Esquire
Conley, Rose & Tayon
600 Travis, Suite 1800
Houston, Texas 77002-2912

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Paper No.

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

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Overton et al.	:	
Application No. 09/661,222	:	
Filed: September 13, 2000	:	LETTER REGARDING
Attorney Docket No. 10406/43	:	PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed January 9, 2006, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment.

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 **SIX HUNDRED FORTY-ONE (641)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 14, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 743 days. Applicants state that this may extend the term of this patent by too many days.

A review of the record reveals that the entry of zero days of applicant delay in connection with responding to the non-final Office action mailed February 25, 2004 is incorrect. Applicants' response after non-final was received on August 25, 2004, not February 25, 2004. Thus, the period of reduction is 92 days (not 0 days) for applicants' taking in excess of three

months to file a response to the Office action mailed February 25, 2004. See § 1.704(b).

As the response was filed on August 25, 2004, the IDS filed August 25, 2004 accompanied the response and thus, was not a supplemental paper. As such the reduction pursuant to § 1.704(c)(8) of 182 days is not warranted.

Moreover, as the response after non-final Office action was received on August 25, 2004, the Office's delay in not issuing a response until February 9, 2005 is 46 days (not 229 days). See § 1.703(a)(2).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is SIX HUNDRED FORTY-ONE (641) days (834 + 46 days of Office delay reduced by 92 + 92 + 55 days of applicant delay).

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 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).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PAIR screen

Day : Thursday
Date: 7/27/2006

PALM INTRANET

Time: 08:25:15

PTA Calculations for Application: 09/661222			
Application Filing Date:	09/13/2000	PTO Delay (PTO):	1063
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	329
Post-Issue Petitions:	0	Total PTA (days):	641
PTO Delay Adjustment:	-93		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	07/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
58	07/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	182		
57	07/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		229	
56	07/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	46		
44	11/14/2005	MAIL NOTICE OF ALLOWANCE			
43	11/14/2005	MAIL EXAMINER'S AMENDMENT			
42	11/10/2005	ISSUE REVISION COMPLETED			
41	11/10/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	11/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
38	10/31/2005	EXAMINER'S AMENDMENT COMMUNICATION			
37	10/31/2005	NOTICE OF ALLOWABILITY			
36	10/03/2005	REFERENCE CAPTURE ON IDS			
35	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		55	33
34	08/20/2005	DATE FORWARDED TO EXAMINER			
33	08/09/2005	RESPONSE AFTER NON-FINAL ACTION		92	29
32	08/09/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	06/17/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
30	06/16/2005	MISCELLANEOUS INCOMING LETTER			
29	02/09/2005	MAIL NON-FINAL REJECTION	229		21
28	02/04/2005	NON-FINAL REJECTION			
27	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26	08/25/2004	MISCELLANEOUS INCOMING LETTER			

25	08/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		182	21
24	08/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	11/22/2004	DATE FORWARDED TO EXAMINER			
21	02/25/2004	RESPONSE AFTER NON-FINAL ACTION			
20	02/19/2004	MISCELLANEOUS INCOMING LETTER			
19	08/25/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	06/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	05/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	02/25/2004	MAIL NON-FINAL REJECTION	834		-1
15	02/21/2004	NON-FINAL REJECTION			
14	12/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	11/04/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	10/02/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	04/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	12/08/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	08/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	02/14/2001	APPLICATION DISPATCHED FROM OIPE			
4	11/13/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/09/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/10/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/13/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,065,556

APPLICATION NO. : 09/661,360

ISSUE DATE : Jun. 20, 2006

INVENTOR(S) : James P. Hickey, et al.

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

In column 3, line 11, after "had" insert - - registered - -.

In column 8, line 13, in Claim 16, after "computers" insert - - or - -.

In column 8, line 24, in Claim 16, after "registering" delete "said".

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/8/09

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 09661360 Patent No.: 7065556 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9390

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: _____

NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

_____ **SPE**

2454 **Art Unit**

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Paper No. 9

DENNIS M DEARIE
DESIGN SCAN INC
15431 RED MAPLE PLACE
GREENWELL SPRINGS LA 70739

COPY MAILED

MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Dearie	:	
Application No. 09/661,361	:	ON PETITION
Filed: 14 September, 2000	:	
For: WIRELESS AUTO INSURANCE	:	
VERIFICATION SYSTEM	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 26 November, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 15 March, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers mailed on 14 January, 2002, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 November, 2003.

Petitioner asserts that he filed an "updated application." Petitioner further asserts that he was hospitalized for an extended period of time.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The present petition lacks items (1) and (3).

In regard to item (1), the petition lacks the reply required by 37 CFR 1.137(a)(1). In this regard, petitioner has not filed the substitute specification required by the Notice mailed on 14 January, 2002. Petitioners must supply a substitute specification in compliance with 37 CFR 1.52 with any renewed petition. If a substitute specification was previously filed, petitioners may wish to supply a copy of that specification, as any well as evidence of timely filing, such as a certificate of mailing or itemized stamped postcard receipt.

In regards to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by

---

[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.

> 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.[2]

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.[3]

A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between 14 March, 2002, and 26 November, 2003. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. Petitioner must provide a statement from petitioner's <u>treating physician</u> listing <u>in detail</u> the diagnosed disability affecting petitioner, the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

---

[2] <u>In re Mattullath</u>, 38 App. D.C. 497, 514-15 (1912)(quoting <u>Ex parte Pratt</u>, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); <u>see also</u> <u>Winkler v. Ladd</u>, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), <u>aff'd</u>, 143 USPQ 172 (D.C. Cir. 1963); <u>Ex parte Henrich</u>, 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." <u>Smith v. Mossinghoff</u>, 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." <u>Haines v. Quigg</u>, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] <u>Ex parte Pratt</u>, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner has supplied no evidence regarding his hospitalization or other evidence supporting a finding of incapacitation. Petitioner's bare assertion that he was hospitalized, without more, is not sufficient to support a finding of unavoidable delay.

Petitioner has provided no evidence showing unavoidable delay. The petition will therefore be dismissed.

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).

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[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 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)).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Fee Schedule
Privacy Act Statement

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. 11

DENNIS M DEARIE
DESIGN SCAN INC
15431 RED MAPLE PLACE
GREENWELL SPRINGS LA 70739

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NOV 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Dearie	:	
Application No. 09/661,361	:	ON PETITION
Filed: 14 September, 2000	:	
For: WIRELESS AUTO INSURANCE	:	
VERIFICATION SYSTEM	:	

This is a decision on the communication filed on 22 April, 2004, styled under 37 CFR 1.137(b), which is treated as a renewed petition under 37 CFR 1.137(a), 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 a final agency decision.

This application became abandoned on 15 March, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers mailed on 14 January, 2002, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 November, 2003. The petition filed on 26 November, 2003, was dismissed on 5 March, 2004.

Petitioner again asserts that he was hospitalized for an extended

period of time. Petitioner further states that his wife mailed a response to an Office communication but did not obtain a receipt.

At the outset, it is noted that petitioner submitted the present petition on the form for a petition under 37 CFR 1.137(b), but submitted only $55.00, the fee required for a petition under 37 CFR 1.137(a). In light of petitioner's arguments that the delay was caused by his illness and hospitalization, the petition will be treated as a renewed petition under 37 CFR 1.137(a).

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The present petition lacks items (1) and (3).

In regard to item (1), the petition still lacks the reply required by 37 CFR 1.137(a)(1). In this regard, petitioner has still not filed the substitute specification required by the Notice mailed on 14 January, 2002. Petitioners must supply a substitute specification in compliance with 37 CFR 1.52 with any renewed petition. If a substitute specification was previously filed, petitioners may wish to supply a copy of that specification, as any well as evidence of timely filing, such as

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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.

a certificate of mailing or itemized stamped postcard receipt.

It is noted that the substitute specification MUST be filed with a grantable petition.

In regards to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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.[3]

A showing of "unavoidable" delay based upon incapacitation must

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[2] 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).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between 14 March, 2002, and 26 November, 2003. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. Petitioner must provide a statement from petitioner's treating physician listing in detail the diagnosed disability affecting petitioner, the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

While petitioner has supplied copies of numerous medical bills and statements, no statement from petitioner's treating physician as described above has been provided. As such, although petitioner has shown that he was hospitalized on several occasions between October, 2000 and March, 2004, petitioner has still not provided a showing that his incapacitation was of such an extent that such incapacitation rendered the delay in prosecution of the application unavoidable.

In summary, while the circumstances surrounding petitioner's condition are most unfortunate, the Office is unable to grant the relief requested without a showing of unavoidable delay as described above. As such, the petition must again be dismissed.

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

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[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 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

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).

As no fee was due for a renewed petition under 37 CFR 1.137(a), the $55.00 fee submitted with the present renewed petition may be applied to the fee for a petition under 37 CFR 1.137(b) should petitioner choose to file such a petition.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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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)).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Fee Schedule
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Dec-05

DENNIS M. DEARIE
DESIGN SCAN INC
15431 RED MAPLE PLACE
GREENWELL SPRINGS LA 70739

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Dearie	:	DECISION ON PETITION
Application No. 09/661,361	:	
Filed: 20 August, 2001	:	
For: WIRELESS AUTO INSURANCE	:	
VERIFICATION SYSTEM	:	

This is a decision on the communication filed on 13 January, 2005, which is treated as a renewed petition under 37 CFR 1.137(a), to revive the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

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 a final agency decision.

This application became abandoned on 15 March, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers mailed on 14 January, 2002, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 November, 2003. The petition filed on 26 November, 2003, was dismissed on 5 March, 2004. The petition filed on 22 April, 2004, was dismissed

on 16 November, 2004. The present renewed petition was filed on 13 January, 2004.

Petitioner again asserts that he was hospitalized for an extended period of time. The present petition is accompanied by a statement from petitioner's treating petition.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The present petition lacks item (1).

In regard to item (1), the petition still lacks the reply required by 37 CFR 1.137(a)(1). In this regard, petitioner has still not filed the substitute specification required by the Notice mailed on 14 January, 2002. Petitioners must supply a substitute specification in compliance with 37 CFR 1.52 with any

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[1] In a nonprovisional application abandoned for failureto 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 an outstanding balance thereof.

renewed petition. If a substitute specification was previously filed, petitioners may wish to supply a copy of that specification, as any well as evidence of timely filing, such as a certificate of mailing or itemized stamped postcard receipt.

The papers filed on 13 January, 2005, do not constitute a proper reply to the Notice to File Corrected Application Papers in that a substitute specification in compliance with 37 CFR 1.52 has not been provided, and an abstract of the technical disclosure in accordance with 37 CFR 1.72(b) has not been provided.

A copy of 37 CFR 1.52 and 1.72 have been provided for petitioner's assistance in preparing a reply. Petitioner may also wish to contact the Inventor's Assistance Center at 1-800-PTO-9199 for additional guidance in preparing the specification and abstract.

It is noted that the substitute specification MUST be filed with a grantable petition.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: 37 CFR 1.52
37 CFR 1.72

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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DENNIS M. DEARIE
DESIGN SCAN INC
15431 RED MAPLE PLACE
GREENWELL SPRINGS LA 70739

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OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Dearie	:	
Application No. 09/661,361	:	ON PETITION
Filed: 20 August, 2001	:	
For: WIRELESS AUTO INSURANCE	:	
VERIFICATION SYSTEM	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed on 6 February, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 March, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers mailed on 14 January, 2002, which set a two month (2) shortened period for reply. Notice of Abandonment was mailed on 6 November, 2003. The petition filed on 26 November, 2003, was dismissed on 5 March, 2004. The petition filed on 22 April, 2004, was dismissed on 16 November, 2004. The petition filed on 13 January, 2005, was dismissed on 2 December, 2005.

Receipt of the substitute specification filed on 9 March, 2006, is acknowledged.

The application is restored to pending status.

The application is being referred to the Office of Initial Patent Examination for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF JAMES TROSINO
92 NATOMA STREET, SUITE 211
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of
Margaret Motamed
Application No. 09/661,489
Filed: September 14, 2000
Attorney Docket No.: EFIM0215

ON PETITION

This is a decision on the petition, filed August 2, 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 20, 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 2626 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

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OFFICE OF PETITIONS

In re Application of	:	
Peter J. Wilk	:	
Application No. 09/661,520	:	ON PETITION
Filed: 13 September, 2000	:	
Att'y Docket No. W07-469	:	

This is a decision on the petition under 1.137(b),[1] filed on 10 January, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 23 December, 2004, for failure to timely submit the issue and publication fees as required by the Notice of Allowance and Issue Fee Due mailed on 22 September, 2004, which set a three (3) month statutory period

---

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

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

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

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

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

for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application No. 09/661,636	:	ON PETITION
Filed: September 13, 2000	:	
Attorney Docket No. 1384.002US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Matthews, Abraham R. :
Application No. 09/661,637 : ON PETITION
Filed: September 13, 2000 :
Attorney Docket No. FORT-000100 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on March 3, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and was credited to petitioner's deposit account on June 23, 2006.

All future correspondence will be mailed to the below address.

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc :

MICHAEL A. DE SANCTIS
756 HARRISON ST.
DENVER CO 80206

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60611

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OFFICE OF PETITIONS

In re Application of	:
Erwin Spanner	:
Application No. 09/661,663	: DECISION GRANTING PETITION
Filed: September 14, 2000	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 56/344	:

This is a decision on the petition, filed December 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 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 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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ALEXANDRIA, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Erwin Spanner	:	
Application No. 09/661,663	:	DECISION ON APPLICATION
Filed: September 14, 2000	:	FOR
Attorney Docket No. 56/344	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed September 30, 2004. Applicant requests that the determination of patent term adjustment indicated in the notice of allowance be corrected from fifty-seven (57) to three hundred thirty (330) days.

The application for patent term adjustment is **DISMISSED**. However, for the reasons stated herein, the patent term adjustment indicated in the notice of allowance is being corrected to ninety (90) days.

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 ninety **(90)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 30, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment

to date is 57 days. On September 30, 2004, applicant timely submitted this application for patent term adjustment[1].

Applicant asserts that a period of adjustment of two hundred forty (240) days, pursuant to § 1.703(a)(6), should be entered. Specifically, applicant requests this period of adjustment to reflect the "4 month" delay from applicant's filing of the issue fee on December 23, 2002 to December 19, 2003 (the date of filing of a petition to withdraw from issue), wherein a patent had still not been issued (the number of days in the period from April 23, 2003 to December 19, 2003).

Applicant states that the present application is not subject to a terminal disclaimer.

Applicant's arguments have been considered, but not found persuasive. 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:

> 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.

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

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[1] Palm Records indicate that the Issue Fee payment was also received on September 30, 2004.

> 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).

Accordingly, in this instance, the date of payment of the issue fee is not controlling. After payment of the issue fee, prosecution was reopened with the filing of a request for continued examination filed December 15, 2003.

However, a review of the application history reveals that the reduction of 68 days for applicant delay in responding to the Office action mailed March 19, 2002 is incorrect. The Office action was remailed and the period for reply restarted on April 22, 2002. Thus, pursuant to § 1.704(b), the period of reduction is 35 days for the period beginning on the day after the date that is three months after the date of remailing of the Office action, July 23, 2002, and ending on the date the reply was filed, August 26, 2002.

In view thereof, the determination of Patent Term Adjustment at the time of mailing of the notice of allowance of ninety (90) days (125 - 35).

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

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

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO CA 90245-0956

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Chang et al :
Application No. 09/661,725 : DECISION ON PETITION
Filed: September 14, 2000 :
Attorney Docket No. PD-200101 :

This is a decision on the petition, filed July 22, 2004 (and resubmitted on November 16, 2005), 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 timely respond to the Office action of October 2, 2003, which set a three (3) month shortened statutory period for reply. A reply was due on or before January 2, 2004.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on December 22, 2003 of, *inter alia,* a response to an office action and supplemental information disclosure statement. A copy of the previously submitted reply accompanies the petition.

A thorough review discovered that the response acknowledged as having been received in the USPTO on December 22, 2003 has been located in the application file, but was not made of record. Accordingly, the response to the Office Action mailed October 2, 2003 was timely received in the USPTO.

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 Technology Center AU 2683 for appropriate action in the normal course of business on the reply filed on December 22, 2003.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

DATE 8-30-07

APPLICATION NUMBER 9/666,899

DOC CODE PET. DEC. LOC. N

DOC DATE ~~8/14/07~~ 8/31/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO - LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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AUG 3 1 2007

OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of
Mu et al.
Application No.09/661,899
Filed: September 14, 2000
Patent No. 7,189,596
Attorney Docket 884.791US1

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" timely [1] filed on May 14, 2007 requesting that the Patent Term Adjustment be changed from a determination of 527 days to a determination of 599 days.

Applicants' request is **GRANTED in part.** The Office will *sua sponte* issue a certificate of correction reflecting the proper amount of PTA as **597** days. In addition, the Office will correct the PTA determination as noted in PAIR to reflect this decision.

Applicants are given **thirty (30) days** to reply if they disagree with the determination of 597 days.

Applicants assert that the Office erred in not granting applicant any PTA for the failure to issue the application within four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4). Applicants assert that the Office missed the requirement by a period of 727 days. Applicants acknowledge 5 days of reduction under 37 CFR 1.704(b) for the submission of the issue fee on August 28, 2006.

Applicants arguments are persuasive. Specifically, the Office issued the application 75 days beyond the 4-month requirement under 37 CFR 1.702(a)(4).[2] Accordingly, the correct amount of PTA at the time of the issuance of the patent is 597 days . Applicants received 527 days for the violation of 37 CFR 1.702(a)(1). Applicants are being awarded 75 additional days for the late issuance of the patent under 37 CFR 1.702(a)(4). Applicants reduced the PTA by an amount of 5 days under 37 CFR 1.704(b) for the submission of the issue fee payment on August 28, 2005.

---

[1] The certificate of mailing was Monday May 14, 2007.

[2]The issue fee was received in the USPTO on August 28, 2006. Accordingly, the USPTO had four months to issue the patent (until December 28, 2006) without granting additional patent term adjustment. However, the Office did not issue the patent until March 13, 2007, 75 days later.

Application No. 09/661,899

Accordingly the proper amount of PTA is 597 days (527+75-5=597).

After the mailing of this Office action, the Office will forward such application to the certificate of correction branch for a prompt issuance of the certificate of correction.

The Office has assessed the $200.00 fee. No other fees are required in determining this decision.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery A Fries

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

cc: Adjusted PAIR calculation
DRAFT certificate of correction

Day : Thursday
Date: 8/30/2007

PALM INTRANET

Time: 12:23:46

PTA Calculations for Application: 09/661899			
Application Filing Date:	09/14/2000	PTO Delay (PTO):	527
Issue Date of Patent:	03/13/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	597
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	140		
92	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		70	
83	03/13/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	02/13/2007	RECEIPT INTO PUBS			
81	01/19/2007	WORKFLOW - FILE SENT TO CONTRACTOR			
80	05/26/2006	CORRESPONDENCE ADDRESS CHANGE			
79	05/23/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
78	05/23/2006	MAIL FORMAL DRAWINGS REQUIRED			
77	05/22/2006	FORMAL DRAWINGS REQUIRED			
76	05/22/2006	CORRECTED NOTICE OF ALLOWANCE			
75	05/22/2006	CORRESPONDENCE ADDRESS CHANGE			
74	05/23/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
73	02/23/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
72	02/23/2006	CORRECTED NOTICE OF ALLOWANCE			
71	02/23/2006	MAILING CORRECTED NOTICE OF ALLOWABILITY			
70	02/23/2006	CORRECTED NOTICE OF ALLOWABILITY			
69	04/11/2005	WORKFLOW - DRAWINGS FINISHED			
68	07/01/2005	EXPORT TO INITIAL DATA CAPTURE			
67	04/11/2005	ISSUE FEE PAYMENT RECEIVED			
66	01/26/2005	RECEIPT INTO PUBS			
65	01/07/2005	MAIL CORRECTED NOTICE OF ALLOWANCE			
64	01/07/2005	MAIL FORMAL DRAWINGS REQUIRED			
63	01/07/2005	FORMAL DRAWINGS REQUIRED			
62	01/07/2005	CORRECTED NOTICE OF ALLOWANCE			

61	01/07/2005	MAILING CORRECTED NOTICE OF ALLOWABILITY			
60	01/07/2005	CORRECTED NOTICE OF ALLOWABILITY			
57	12/28/2004	RECEIPT INTO PUBS			
56	12/28/2004	WORKFLOW - QUERY REQUEST - BEGIN			
55	12/10/2004	RECEIPT INTO PUBS			
54	07/30/2004	RECEIPT INTO PUBS			
53	07/30/2004	WORKFLOW - QUERY REQUEST - FINISH			
52	07/20/2004	RECEIPT INTO PUBS			
51	07/20/2004	WORKFLOW - QUERY REQUEST - BEGIN			
50	06/22/2004	RECEIPT INTO PUBS			
49	06/18/2004	RECEIPT INTO PUBS			
48	04/06/2004	ISSUE REVISION COMPLETED			
47	04/05/2004	MAIL NOTICE OF ALLOWANCE			
46	04/05/2004	MAIL FORMAL DRAWINGS REQUIRED	527		38
45	04/05/2004	FORMAL DRAWINGS REQUIRED			
44	04/05/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	04/05/2004	NOTICE OF ALLOWABILITY			
42	10/07/2002	NEW OR ADDITIONAL DRAWING FILED			
41	03/19/2004	DATE FORWARDED TO EXAMINER			
40	06/26/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	03/19/2004	DATE FORWARDED TO EXAMINER			
38	06/26/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	03/19/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	03/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
35	03/17/2004	CORRESPONDENCE ADDRESS CHANGE			
34	03/04/2004	RECEIPT INTO PUBS			
33	03/03/2004	FILE MARKED FOUND			
32	03/18/2003	FILE MARKED LOST			
31	02/20/2002	WORKFLOW - REQUEST FOR RCE - FINISH			
30	06/19/2002	RECEIPT INTO PUBS			
29	06/19/2002	WORKFLOW - QUERY REQUEST - FINISH			
28	06/07/2002	WORKFLOW - CUSTOMER SERVICE REQUEST - FINISH			
27	06/07/2002	WORKFLOW - CUSTOMER SERVICE REQUEST -			

		BEGIN			
26	04/30/2002	RECEIPT INTO PUBS			
25	04/23/2002	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
24	04/19/2002	RESPONSE TO AMENDMENT UNDER RULE 312			
23	02/20/2002	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
22	02/20/2002	WORKFLOW - 312 AMENDMENT - FINISH			
21	02/20/2002	WORKFLOW - 312 AMENDMENT - BEGIN			
20	02/20/2002	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	12/10/2001	RECEIPT INTO PUBS			
18	11/08/2001	RECEIPT INTO PUBS			
17	11/08/2001	RECEIPT INTO PUBS			
16	11/06/2001	MAIL NOTICE OF ALLOWANCE			
15	11/06/2001	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
14	11/05/2001	NOTICE OF ALLOWABILITY			
13	09/07/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	11
12	09/14/2001	DATE FORWARDED TO EXAMINER			
11	09/07/2001	RESPONSE TO ELECTION / RESTRICTION FILED			
10	08/03/2001	MAIL RESTRICTION REQUIREMENT			
9	08/03/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
8	02/07/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/25/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	12/01/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/01/2000	APPLICATION IS NOW COMPLETE			
4	11/07/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/06/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/03/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/14/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,189,596 B1

DATED : Mar. 13, 2007

INVENTOR(S) : Mu et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (527) days

Delete the phrase "by 527 days" and insert – by 597 days--

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OFFICE OF PETITIONS

In re Application of :
Feria, Ming Chang, and Donald Chang :
Application No.: 09/661,967 : ON PETITION
Filing Date: September 14, 2000 :
Attorney Docket No. PD-2001108 :

This is a decision on the petition under 37 CFR 1.47 filed November 29, 2007, which will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **dismissed.**

The record reflects that the joint inventors named in subject application executed the declaration required by 37 CFR 1.63, and that the executed declaration was filed on December 1, 2000. Petitioner now files the instant petition under 37 CFR 1.47(b) because one of the joint inventors cannot be located and the other joint inventors have constructively refused to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signatures of the joint inventors.

It is noted that the provisions of 37 CFR 1.47 only apply to the execution of the original oath or declaration under 37 CFR 1.63. A petition under 37 CFR 1.47 is not appropriate in this case because the joint inventors executed the original declaration. Relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to the joint inventors.

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.131 so as to accept the declaration of prior invention, without the signatures of the joint inventors. The petition must be dismissed, however, a certificate under 37 CFR 3.73(b) did not accompany the petition. An authorized representative of the assignee for the application must sign the declaration under 37 CFR 1.131 because none of joint inventors is available to sign the declaration under 37 CFR 1.131. The assignee must, however, establish its authority to act in the application by filing a certificate under 37 CFR 3.73(b). The renewed petition must be accompanied by an executed certificate under 37 CFR 3.373(b) and a declaration under 37 CFR 1.131 executed by an authorized representative of the assignee.

The fee for the petition under 37 CFR 1.183 is $400.00 as per 37 CFR 1.183 and 1.17(f). Deposit account 50-0383 will be charged an additional $200.00, accordingly.

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

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

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

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Feria, Ming Chang, and Donald Chang :
Application No.: 09/661,967 : ON PETITION
Filing Date: September 14, 2000 :
Attorney Docket No. PD-2001108 :

This is a decision on the renewed petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The renewed petition is **granted**.

The record reflects that the joint inventors named in subject application executed the declaration required by 37 CFR 1.63, and that the executed declaration was filed on December 1, 2000. Petitioner now files the instant petition because one of the joint inventors cannot be located and the other joint inventors have constructively refused to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signatures of the joint inventors. The declaration under 37 CFR 1.131 is executed by the assignee and is accompanied by certificate under 37 CFR 3.73(b) empowering the assignee to take action in the subject application.

The petition is granted; the requirement of 37 CFR 1.131 that all relevant inventors execute the declaration under 37 CFR 1.131 is waived as to the joint inventors. The examiner assigned to the application has the authority to determine the sufficiency of the declaration under 37 CFR 1.131; this decision does not mean to address that issue at all.

The application file will be forwarded to Technology Center 2600, GAU 2617 for further processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Scheiflinger et al.	:	DECISION ON APPLICATION
Application No. 09/661,992	:	FOR
Filed: September 14, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 237.00	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION," filed March 23, 2005. This paper was recently forwarded to the undersigned for consideration. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred sixteen (116) days to one hundred thirty-two (132) 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 **ninety-six (96)** days (not 132 days). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 29, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 116 days. On March 23, 2005, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants dispute the period of adjustment for Office failure to mail a first action under 35

[1] PALM records indicate that the Issue Fee payment was filed on April 1, 2005.

U.S.C. 132. Applicants maintain that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 650 days. Applicants argue that the Office should have used the date of mailing of the restriction requirement, August 26, 2003, and not the date of mailing of a Notice to Comply with Sequence Requirements, February 6, 2003, in calculating this period. Further, applicants state that using the later date the period under 35 U.S.C. 132 is 650 days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

As to the reduction pursuant to § 1.703(a)(1), applicants are correct. As stated in the final rule,

> Section 1.703(a)(1) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(i). Section 1.703(a)(1) specifies that the period is the number of days, if any, beginning on the date after the day that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application and ending on the mailing date 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 written restriction requirement, a written election of species requirement, a requirement for information under 1.105, an action under Ex parte Quayle, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132. Office notices and letters issued as part of the pre-examination processing of an application are not notices issued as a result of an examination conducted pursuant to 35 U.S.C. 131, and thus are not notifications under 35 U.S.C. 132. Examples of such notices are: a Notice of Incomplete Nonprovisional Application (PTO-1123), a Notice of Omitted Item(s) in a Nonprovisional Application (PTO-1669), a Notice to File Missing Parts of Application (PTO-1533), a Notice of Informal Application (PTO-152), a Notice to File Corrected Application Papers Filing Date Granted (PTO-1660), or a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661).

The period of adjustment is 650 days based on the mailing of a first Office action on August 26, 2003 (counting the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), November 15, 2001, and ending on the date of mailing of an action under 35 U.S.C. 132, the restriction mailed August 26, 2003).

However, a review of the record also reveals further basis for reduction of the patent term adjustment. First, of all, a reduction of 33 days is entered pursuant to § 1.704(b). Applicants took in excess of three months to file a response to the Notice to File Missing Parts mailed November 15, 2000. A response was not received until March 20, 2001, three months and 33 days later.

Secondly, the reduction associated with applicants' filing of a response to a letter to comply with the sequence rules filed November 1, 2002 is corrected from 31 days to 203 days. This reduction was entered pursuant to 1.704(b); however, this reduction should have been entered pursuant to 1.704(c)(7). 1.704(c)((7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

By letter mailed July 1, 2002, applicants were advised that the response filed April 12, 2002 contained an omission. On November 1, 2002, applicants filed a response correcting the omission. The period of applicant delay runs from April 13, 2002 to November 1, 2002, a period of 203 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is ninety-six (96) days (650 days of Office delay reduced by 554 days (33 + 31 + 203 + 160 + 36 + 91) for 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 application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of Revised PAIR Screen

PALM INTRANET

Day : Tuesday
Date: 2/7/2006
Time: 10:22:17

PTA Calculations for Application: 09/661992			
Application Filing Date:	09/14/2000	PTO Delay (PTO):	465
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	349
Post-Issue Petitions:	0	Total PTA (days):	96
PTO Delay Adjustment:	-20		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	650		
91	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		16	
90	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		449	
89	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		203	
88	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	31		
87	02/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		33	
76	12/29/2004	MAIL NOTICE OF ALLOWANCE			
75	12/27/2004	ISSUE REVISION COMPLETED			
74	12/27/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	12/27/2004	NOTICE OF ALLOWABILITY			
72	12/21/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
71	12/17/2004	DATE FORWARDED TO EXAMINER			
70	12/10/2004	AMENDMENT AFTER FINAL REJECTION			
69	12/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
68	11/22/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	11/17/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
66	09/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
65	09/07/2004	FINAL REJECTION			
64	07/26/2004	DATE FORWARDED TO EXAMINER			
63	07/02/2004	RESPONSE AFTER NON-FINAL ACTION		91	58
62	07/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
61	07/02/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

60	07/19/2004	CORRESPONDENCE ADDRESS CHANGE			
59	07/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
58	01/02/2004	MAIL NON-FINAL REJECTION			
57	12/29/2003	NON-FINAL REJECTION			
56	11/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		36	53
55	11/14/2003	REFERENCE CAPTURE ON IDS			
54	10/14/2003	DATE FORWARDED TO EXAMINER			
53	10/09/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
52	10/09/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	08/26/2003	MAIL RESTRICTION REQUIREMENT	16		47
50	08/25/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
49	07/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
48	05/13/2003	DATE FORWARDED TO EXAMINER			
47	04/10/2003	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES		160	39
46	04/10/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	02/06/2003	MAIL NOTICE OF RESTARTED RESPONSE PERIOD	449		-1
44	02/05/2003	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
43	01/15/2003	MAIL INCOMPLETE RESPONSE TO SEQUENCE RULE REQUEST			
42	01/15/2003	INCOMPLETE RESPONSE TO SEQUENCE RULE REQUEST			
41	11/26/2002	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
40	11/14/2002	DATE FORWARDED TO EXAMINER			
39	11/01/2002	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES		31	36
38	11/01/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	07/01/2002	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
35	07/01/2002	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
15	05/02/2002	ERROR(S) IN CRF CORRECTED BY STIC			
14	04/23/2002	DATE FORWARDED TO EXAMINER			
		RESPONSE TO A LETTER TO COMPLY WITH THE			

13	04/12/2002	SEQUENCE RULES		31	10
12	04/12/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
10	12/12/2001	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
9	12/12/2001	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
8	03/30/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	03/02/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
6	03/26/2001	APPLICATION DISPATCHED FROM OIPE			
5	03/26/2001	APPLICATION IS NOW COMPLETE			
4	11/15/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/14/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/12/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/14/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Birch Stewart Kolasch & Birch LLP
PO Box 747
Falls Church, VA 22040-0747

In re Application of	:	
Mi Young Kim	:	DECISION GRANTING REQUEST
Application No. 09/662,023	:	TO RESET PERIOD FOR REPLY
Filed: September 14, 2000	:	
For: **METHOD FOR CHECKING DISK LOADING STATUS IN OPTICAL DRIVER**	:	

This is a decision on the request filed on November 29, 2004, requesting that the shortened statutory period for reply set forth in the Office communication mailed on August 27, 2004 be reset to run from the date on which the missing Tonegawa reference was actually received by the practitioner.

The petition is **GRANTED.**

Practitioner stated that the Office action mailed August 27, 2004 was incomplete inasmuch as a copy of the Tonegawa reference was not listed on the PTO-892 accompanying the Office action and a copy of said reference was not provided with the Office action. Practitioner also provided a statement that the missing Tonegawa reference was sent by the examiner and received via facsimile by the attorney of record on November 15, 2004.

The request to reset the period for reply was not filed within the first month; however, applicant did notify the Office with approximately 2 weeks of the shortened statutory period of time for reply remaining. Therefore, the petition meets the criteria for resetting a time period to respond to an Office action as set forth in MPEP §710.06; wherein at least one month must be provided.

Accordingly, the shortened statutory period that was originally set forth in the Final Office action originally mailed on August 27, 2004 is hereby reset to run ONE MONTH FROM THE RECEIPT DATE OF November 15, 2004.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

MAY 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
M. Young Kim
Application Serial No.: 09/662,023
Filed: September 14, 2000
For: **METHOD FOR CHECKING DISK LOADING STATUS IN OPTICAL DRIVER**

DECISION
ON PETITION

This is a decision on the petition filed February 15, 2005 under 37 CFR § 1.181, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed August 27, 2004.

PERTINENT BACKGROUND

This application was filed September 14, 2000.

A first Office action was issued March 11, 2004 rejecting claims 1, 4, and 5 under 35 USC 112, 2nd paragraph where the phrase "by multi-stage" was not understood and were rejected as being unpatentable under 35 USC 103 over JP 60-136059 further considered with JP4- 19827 and Mitani et al., and also rejecting claims 2 and 3 as unpatentable under 35 USC 103 over the art applied to claims 1, 4, and 5, further in view of Aoyagi et al.

A response to the first Office action was timely filed and received in the Patent and Trademark Office (PTO) on June 14, 2004. Claims 1, 4, and 5 were amended to overcome the rejections. Furthermore, new claims 6 and 7 were added.

A second Office action was issued on August 27, 2004 with new grounds of rejection rejecting claims 1, 4, 5, 6, and 7 as being unpatentable under 35 USC 103 over Tonegawa et al. considered with JP 60-136059 and Scribner et al. The examiner held that the amendment necessitated the new grounds of rejection and made the second Office action Final.

On November 29, 2004, applicant filed an amendment after Final.

On December 23, 2004, the examiner mailed an Advisory Action providing reasons why the amendment after Final would not be entered; and addressing why the request for reconsideration failed to place the application in condition for allowance.

Petitioner seeks relief by filing a petition under 37 CFR 1.181 requesting the finality of the Final Office action of August 27, 2004 be withdrawn.

REGULATIONS AND PRACTICE

37 CFR § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116. ...

MPEP § 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits shall be final, except where the examiner introduces a new ground of rejection that is (not) necessitated by applicant's amendment of the claims...

OPINION

Petitioner contends that the new grounds of rejection in the Office action were not necessitated by amendment. Petitioner argues that claims 1-4 were amended in an attempt to overcome the 35 USC 112, 2nd paragraph rejection and did not affect the scope of the claims in any way and that no attempt was made to overcome the prior art rejections under 35 USC 103.

A review of the amendment filed June 14, 2004 finds that the attorney did more amending that just responding to the 35 USC 112, 2nd paragraph rejection. For example, applicant added new language to claim 1 specifying "transmitting information to a host connected through an interface to the optical disk driver" (emphasis added to show added material). This newly added phraseology was not in response to the 35 USC 112, 2nd paragraph rejection. Furthermore, it is determined that the examiner's new grounds of rejection were made in order to address interfacing between a host and a sub-unit as now claimed.

This feature was not presented earlier and its addition to claim 1 necessitated changing the grounds of rejection as discussed above. Thus, it is proper under current Office practice to make the second Office action Final as provided for under 37 CFR 1.113 and MPEP 706.07(a).

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the Final Office action of August 27, 2004 is **DENIED**.

The three month shortened statutory period for response set forth in the Final Office action of August 27, 2004 continues to run from the date of November 15, 2004, as RESET in the decision

mailed February 4, 2005. Furthermore, a review of the file finds a Notice of Appeal was filed March 14, 2005. Therefore, the application is being retained in the Technology Center to await the filing of an Appeal Brief.

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No. 10

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

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AUG 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Dangsheng Li et al :
Application No. 09/662,052 : ON PETITION
Filed: September 15, 2000 :
Attorney Docket No. 5986/1G098US1 :

This is a decision on the petition under 37 CFR 1.182, filed July 2, 2002, to change the order of the names of the inventors.

The petition is granted.

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

This file is being forwarded to Technology Center 1600.

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

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 1 3 2006
OFFICE OF PETITIONS

In re Application of :
Hideo Ando et al :
Application No. 09/662,217 :
Filed: September 14, 2000 :
Attorney Docket No. 04329.2384 :

ON PETITION

This is a decision on the petition filed March 10, 2006, which is being treated under 37 CFR 1.313(c)(2), 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 12, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

---

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

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

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OFFICE OF PETITIONS

In re	:
Ando, et al.	: DECISION REGARDING
Application No. 09/662,217	: PATENT TERM ADJUSTMENT
Filed: September 14, 2000	:
Attorney Docket No. 04329.2384	:

This decision is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT", filed June 29, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request 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 eighty-six (1086) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office determined a patent term adjustment of one thousand, one hundred thirteen (1113) days based on an adjustment for PTO delay of one thousand, one hundred thirteen (1113) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero days of applicant delay.

Applicants state that "after the payment of the Issue Fee on January 12, 2006, they filed a Request for Continued Examination (Request) on March 10, 2006, and the time for the PTO to act on this Request does not appear to have been considered for possible reduction of patent term adjustment."

Applicants are correct. Pursuant to 37 C.F.R. 1.704(c)(10), applicants should have been assessed delay for filing a paper after the mailing of a Notice of Allowance. The Office mailed a Notice of Allowance on October 20, 2005. On January 12, 2006, applicants filed the issue fee. Subsequently, Applicants filed an RCE (together with an IDS and a petition to withdraw from issue) on March 10, 2006. The IDS lacked a 37 C.F.R. 1.704(d) statement. The Office responded by mailing a new Notice of Allowance on April 5, 2006. Accordingly, under 1.704(c)(10), Applicants should have been assessed delay of twenty-seven (27) days.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson for

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

Day : Wednesday

PALM INTRANET

Date: 9/12/2007
Time: 17:48:51

PTA Calculations for Application: 09/662217			
Application Filing Date:	09/14/2000	PTO Delay (PTO):	1113
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1086
PTO Delay Adjustment:	-27		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	09/12/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		27	
49	04/05/2006	MAIL NOTICE OF ALLOWANCE			
48	04/03/2006	ISSUE REVISION COMPLETED			
47	04/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	04/03/2006	NOTICE OF ALLOWABILITY			
45	03/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	03/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	11/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	03/21/2006	DATE FORWARDED TO EXAMINER			
41	03/10/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	03/21/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	03/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
37	03/10/2006	REFERENCE CAPTURE ON IDS			
36	03/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	03/13/2006	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
34	03/10/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	03/10/2006	PETITION ENTERED			
32	02/10/2006	MAIL EXAMINER'S AMENDMENT			

31	02/10/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
30	02/08/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
29	02/08/2006	EXAMINER'S AMENDMENT COMMUNICATION			
28	01/12/2006	ISSUE FEE PAYMENT VERIFIED			
27	11/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/12/2006	ISSUE FEE PAYMENT RECEIVED			
25	01/03/2006	PUBS CASE REMAND TO TC			
24	12/29/2005	WORKFLOW - QUERY REQUEST - BEGIN			
23	10/25/2005	EXPORT TO INITIAL DATA CAPTURE			
22	10/20/2005	MAIL NOTICE OF ALLOWANCE			
21	10/18/2005	ISSUE REVISION COMPLETED			
20	10/17/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	10/17/2005	NOTICE OF ALLOWABILITY			
18	10/05/2005	DATE FORWARDED TO EXAMINER			
17	09/29/2005	AMENDMENT AFTER FINAL REJECTION			
16	07/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
15	06/27/2005	FINAL REJECTION			
14	04/13/2005	DATE FORWARDED TO EXAMINER			
13	03/01/2005	RESPONSE AFTER NON-FINAL ACTION			
12	12/01/2004	MAIL NON-FINAL REJECTION	1113		-1
11	11/29/2004	NON-FINAL REJECTION			
10	07/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	07/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	10/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/08/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	10/10/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	11/29/2000	CASE DOCKETED TO EXAMINER IN GAU			
4	11/01/2000	APPLICATION DISPATCHED FROM OIPE			
3	10/27/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/04/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/14/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MONTEREY, CA 93940

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OFFICE OF PETITIONS

In re Application of	:	
Judith E. Schwabe	:	
Application No. 09/662,258	:	ON PETITION
Filed: September 14, 2000	:	
Attorney Docket No. SUN-P4175	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 28, 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 October 29, 2004.

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

This matter is being referred to Technology Center AU 2161.

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

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VALLEY FORGE, PA 19482

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OFFICE OF PETITIONS

In re Application of	:
Masahiro Takatori et al	:
Application No. 09/662,432	: DECISION GRANTING PETITION
Filed: September 13, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTS-3205US	:

This is a decision on the petition, filed February 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 June 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/18/08

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 09662451 Patent No.: 7287009 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
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: _____

AU 1792

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
09/662,462	09/15/2000	Terry Smith	2551-49

FORMALITIES LETTER

OC000000005498469

NIXON & VANDERHYE P C
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

OIPE JC99 DEC 26 2000 PATENT & TRADEMARK OFFICE

Date Mailed: 10/24/2000

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 $594.
  - **$594** for **33** total claims over 20.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- 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 $ 1414.**

12/28/2000 JADDO1 00000018 09662462
01 FC:101 710.00 OP
02 FC:103 594.00 OP
03 FC:104 270.00 OP
04 FC:105 130.00 OP

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

SMITH et al.

Serial No. 09/662,462

Filed: September 15, 2000

For: NUCLEIC ACID PROBES AND METHODS FOR DETECTING CLINICALLY IMPORTANT FUNGAL PATHOGENS

Attention: Application Branch

Atty. Dkt. 2551-49

Date: December 26, 2000

OIPE JC99 DEC 26 2000 PATENT & TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

The attached completes filing of the above-identified patent application:

☒ Signed Rule 63 Declaration alone OR
☐ Signed Declaration plus attached copy of originally filed specification/drawings.
☒ **NOTICE TO FILE MISSING PARTS OF APPLICATION FILING DATE GRANTED** form.
☒ Record and return the attached assignment.
☒ Priority is hereby claimed per Rule 55 & 35 USC119 based on prior foreign application(s) Nos.:

Application Nos.	**Country**	**Filing Date**
EP 99870109.8	EP	28 May 1999
PCT/EP00/04714		24 May 2000

respectively.

☒ This application is based on the following prior provisional application(s):

Application No.	**Filing Date**
60/138,621	**11 June 1999**

respectively and priority is hereby claimed therefrom.
Certified copy(ies) of foreign and/or provisional application(s): ☐ attached; ☐ already filed on _____.
in U.S. Application Serial No. _____, filed on _____.

☐ The undersigned verifies that the above-identified application is identical to: PCT/EP00/04714 filed 24 May 2000, as amended on .

☐ This application is entitled to "Small entity" status. ☐ "Small entity" statement attached.

☒ Also attached: Please enter the attached Amendment prior to calcualtion of the filing fees.

Fees are attached as calculated below:

Basic filing fee						$	710.00
Total Effective claims	53	- 20 =	33	x $	18.00	$	594.00
Independent claims	2	- 3 =	0	x $	80.00	$	0.00
If any proper multiple dependent claims now added for first time, add $270.00 (ignore improper)						$	270.00
					FILING FEE	$	1,574.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) ($110.00/1 month; $390.00/2 months; $890.00/3 months; $1390.00/4 months)						$	0.00
Surcharge ($130.00) if Declaration or filing fee first now submitted						$	130.00
					FIRST SUBTOTAL	$	1,704.00
If "small entity," enter half (½) of subtotal and subtract						-$	0.00
					SECOND SUBTOTAL	$	1,704.00
Assignment Recording Fee ($40.00)						$	40.00
					TOTAL FEE ENCLOSED	$	1,744.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
BJS:

NIXON & VANDERHYE P.C.
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: _____

485724

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WILLIAM R. MCCLELLAN
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02110

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SEP 13 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Svetlana B. Radovanov et al.
Application No. 09/662,471
Filed: September 15, 2000
Attorney Docket No. **V0077/7162**

This is a decision on the petition filed July 12, 2007 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 16, 2004 for failure to timely pay the issue fee on or before June 15, 2007. Accordingly, a Notice of Abandonment was mailed July 9, 2004.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and

---

[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)).

109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The issue fee and petition fee have all 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090429

DATE : May 8, 2009

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction on Patent No.: 6780583

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Gary Benzion/ **Art Unit** 1637

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,449,985	2002-09-17	09662497	2000-09-14	60886/K511

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 A. Plumley/	Date (YYYY-MM-DD)	2007-11-20
Name	David A. Plumley	Registration Number	37208

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. 6449985
Issue Date: September 17,2002
Application No. 09662497
Filed: September 14,2000
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 20,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 20,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEIL MARK
U.S. GEOLOGICAL SURVEY
12201 SUNRISE VALLEY DR.
MAIL STOP 201
RESTON VA 20192

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APR 21 2005

OFFICE OF PETITIONS

In re Application of Richard Smith Application No.09/662,507 Patent No. 6,863,815 Filed: September 14, 2000 Issued: March 8, 2005 Attorney Docket Number: SUR-3645 Title of Invention: Small-Scale Hydrogen-Oxidizing-Denitrifying Bioreactor	: : : : : : :	ON PETITION

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

This petition is dismissed as moot.

A Notice of Allowance and Fee (s) Due mailed on March 10, 2004 set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). The reply period expired on June 11, 2004. A Notice of Rescinded Abandonment was mailed on September 22, 2004. Accordingly, this application has not been held abandoned as the reply to the Notice of Allowance in the form of the issue fee payment was timely submitted prior to the expiration date.

A petition fee has not been charged and none is due.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

09/662553

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-18-05

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction on Patent No.: 6957254

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2157
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : ~~6,57,254 B1~~ 6,957,254

DATED : 18 October 2005

INVENTOR(S): Skef F. Iterum et al.

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

In claim 32 (at column 10, line 49), please delete the words,

"that that" and replace with the word --that--.

MAILING ADDRESS OF SENDER:
Edward J. Grundler
Park, Vaughan & Fleming LLP
2820 Fifth Street
Davis, CA 95616

PATENT NO: 6,957,254 B1

Davis, CA 95616

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450.

NOV. 1 4 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Takao Miyazaki et al	:	
Application No. 09/662,630	:	ON PETITION
Filed: September 15, 2000	:	
Attorney Docket No. 0879-0276P	:	

This is a decision on the petition, filed June 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 26, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2622 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).

UNITED STATES 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. _____

Date : June 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Takao Miyazaki et al
Application No. :09/662,630
Filed :September 15, 2000

The above-identified application has been assigned Patent No. 7,068,311 and an issue date of June 27, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 27, 2006:

"All reference to Patent No. 7,068,311 to Takao Miyazaki et al of Japan for VIDEO IMAGE PRODUCING METHOD AND APPARATUS appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 26

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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SEP 0 2 2003

OFFICE OF PETITIONS

In re Application of
Jayyosi et al.
Application No. 09/662,649
Filed: September 14, 2000
Attorney Docket No. 02481.1690

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. § 1.183," filed August 7, 2003, requesting that the correct name of the assignee, **Aventis Pharma Deutschland GmbH**, be printed on the patent that issues from this application. This petition is properly treated under 37 C.F.R. § 3.81(b)[1].

The petition included a copy of the executed assignment dated August 6, 2003. The petition was made by a proper party and included payment of the processing fee. Petitioner also included copies of the relevant requests for recordation of assignments in the Office dated August 7, 2003. Accordingly, it is concluded that petitioner has met the requirements for issuance of the application in the assignee's name provided that the requested data can be printed on the patent without substantial disruption to the issue process.

The petition is **GRANTED**.

The application file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[1] This petition is properly treated as a petition under § 3.81(b) rather than a petition under § 1.183 to waive the requirements of § 3.81(a), because there was not an error in the assignment information provided on the PTOL-85(B), rather there was a late assignment after payment of the issue fee.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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MAR 28 2001

OFFICE OF PETITIONS
A/C PATENTS

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

In re Application of
Ben-Zur et al.
Application No. 09/662,681
Filed: September 15, 2000
For: Interface Receiver For Communications Among Network Elements

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

This is in response to the petition filed January 29, 2001, pursuant to the provisions of rule 37 CFR 1.47(a).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 1.47(a)," and should only address the deficiencies noted below. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 15, 2000 with a declaration, and naming Raanan Ben-Zur, Boris Reynov, Bayne G. Steele, and Ohm P. Mishra as joint inventors. The declaration was signed by inventors Raanan Ben-Zur, Boris Reynov, and Ohm P. Mishra, but not by inventor Bayne G. Steele.

Accordingly, on November 29, 2000, a "Notice to File Missing Parts of Application" was mailed indicating that the signature of joint inventor Bayne G. Steele was missing, and requiring an oath or declaration in compliance with 1.63 and a $130 surcharge for its late filing.

In response, on January 29, 2001, petitioner submitted the instant petition and $130 fee, a $130 surcharge, a declaration of facts and evidence in support of the petition, the last known address of the non-signing inventor, and a copy of the declaration pursuant to 37 CFR 1.63 submitted on September 15, 2000.

The declaration of facts presented by Mr. Richard L. Gregory, the attorney of record in the instant application, states that a combined Declaration and Power of Attorney and an Assignment were sent to Bayne G. Steele at his last known address via U.S. Postal Service on December 5, 2000 and the documents were returned marked "Unclaimed" and on January 5, 2001 the Declaration and Assignment were again sent via Federal Express and the documents were returned with a message marked "the recipient address on the air bill is incorrect or incomplete". The declaration further states that a telephone call was placed to the last known telephone number of inventor Steele and a message was

received indicating that the number was disconnected. Lastly, the declaration states that an electronic search for contact information for inventor Steele was made, and none of the attempts to locate inventor Steele were successful.

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; (4) a statement of the last known address of the non-signing inventor. Applicant lacks item(s) (1) as set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Steele, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. While it is recognized that an attempt was made to deliver papers (albeit no mention is made of the application papers) to the last known address of the inventor and that these papers were returned as undeliverable and that the last known address of inventor Steele was obtained from his former employee, Cyras Systems, Inc. (Cyras), the showing currently fails to demonstrate, with a documented showing, that all possible efforts were made to find or locate inventor Steele such that the declaration can be accepted under 37 CFR 1.47(a). More specifically, petitioner should demonstrate other attempts to locate nonsigning inventor Steele. In this regard, have any of inventor Steele's former co-workers kept in touch with him? Does Rule 47 applicant have access to Cyras' personnel records, and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Has petitioner attempted to locate inventor Steele on the Internet?[1] While the declaration of Mr. Gregory, Jr., states that an electronic search for contact information for inventor Steele was made, the declaration did not indicate the method used in conducting the search and no evidence of the search results has been made of record. If inventor Steele is located, then a copy of the complete application papers (specification, claims, drawings, oath or declaration) must be mailed to inventor Steele, return receipt requested. Copies of documentary evidence, such as returned mail receipt showing proof of service on inventor Steele, cover letter of instructions, telegraphs, E-mail, etc., to support a showing that the application papers and oath or declaration were sent to inventor Steele's current or last known address must be submitted and to support a conclusion that inventor Steele could not be reached or located to join in the instant application or that he refused to accept delivery of the application papers. However, if the papers are returned with a current or forwarding address, petitioner should mail a copy of the application papers to the forwarding address, return

---

[1] A brief Internet search found two Bayne Steele's at telephone numbers (707) 762-4330 in California and (919) 603-5567 in North Carolina.

receipt requested, requesting that inventor Steele sign the oath or declaration after reviewing the application papers. The cover letter of instructions should include a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made in a statement by someone with firsthand knowledge of the events and must be supported by documentary evidence. See MPEP 409.03(d).

If after having presented the nonsigning inventor with a copy of the application papers, there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration. Statements by a party not present when an oral refusal is made will not be accepted. Where there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. See MPEP 409.03(d).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

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

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

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

Frances Hicks

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

21391-705
RG

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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WILSON, SONSINI, GOODRICH & ROSATI

OIPE JC76
APR 25 2001

Paper No. 7

WSGR PATENT DOCKET
U.S.: ✓ FOREIGN:
DOCKETED: 4/16/01 BY: DN
ACTION: RECONSIDER REQ.
DUE DATES: DUE-5/28/01
FINAL-9/28/01
ATTY: RG C/M #: 21391-705

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MAR 28 2001
OFFICE OF PETITIONS
A/C PATENTS

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

In re Application of
Ben-Zur et al.
Application No. 09/662,681
Filed: September 15, 2000
For: Interface Receiver For Communications Among Network Elements

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

This is in response to the petition filed January 29, 2001, pursuant to the provisions of rule 37 CFR 1.47(a).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 1.47(a)," and should only address the deficiencies noted below. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 15, 2000 with a declaration, and naming Raanan Ben-Zur, Boris Reynov, Bayne G. Steele, and Ohm P. Mishra as joint inventors. The declaration was signed by inventors Raanan Ben-Zur, Boris Reynov, and Ohm P. Mishra, but not by inventor Bayne G. Steele.

Accordingly, on November 29, 2000, a "Notice to File Missing Parts of Application" was mailed indicating that the signature of joint inventor Bayne G. Steele was missing, and requiring an oath or declaration in compliance with 1.63 and a $130 surcharge for its late filing.

In response, on January 29, 2001, petitioner submitted the instant petition and $130 fee, a $130 surcharge, a declaration of facts and evidence in support of the petition, the last known address of the non-signing inventor, and a copy of the declaration pursuant to 37 CFR 1.63 submitted on September 15, 2000.

The declaration of facts presented by Mr. Richard L. Gregory, the attorney of record in the instant application, states that a combined Declaration and Power of Attorney and an Assignment were sent to Bayne G. Steele at his last known address via U.S. Postal Service on December 5, 2000 and the documents were returned marked "Unclaimed" and on January 5, 2001 the Declaration and Assignment were again sent via Federal Express and the documents were returned with a message marked "the recipient address on the air bill is incorrect or incomplete". The declaration further states that a telephone call was placed to the last known telephone number of inventor Steele and a message was

received indicating that the number was disconnected. Lastly, the declaration states that an electronic search for contact information for inventor Steele was made, and none of the attempts to locate inventor Steele were successful.

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; (4) a statement of the last known address of the non-signing inventor. Applicant lacks item(s) (1) as set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Steele, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. While it is recognized that an attempt was made to deliver papers (albeit no mention is made of the application papers) to the last known address of the inventor and that these papers were returned as undeliverable and that the last known address of inventor Steele was obtained from his former employee, Cyras Systems, Inc. (Cyras), the showing currently fails to demonstrate, with a documented showing, that all possible efforts were made to find or locate inventor Steele such that the declaration can be accepted under 37 CFR 1.47(a). More specifically, petitioner should demonstrate other attempts to locate nonsigning inventor Steele. In this regard, have any of inventor Steele's former co-workers kept in touch with him? Does Rule 47 applicant have access to Cyras' personnel records, and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Has petitioner attempted to locate inventor Steele on the Internet?[1] While the declaration of Mr. Gregory, Jr., states that an electronic search for contact information for inventor Steele was made, the declaration did not indicate the method used in conducting the search and no evidence of the search results has been made of record. If inventor Steele is located, then a copy of the complete application papers (specification, claims, drawings, oath or declaration) must be mailed to inventor Steele, return receipt requested. Copies of documentary evidence, such as returned mail receipt showing proof of service on inventor Steele, cover letter of instructions, telegraphs, E-mail, etc., to support a showing that the application papers and oath or declaration were sent to inventor Steele's current or last known address must be submitted and to support a conclusion that inventor Steele could not be reached or located to join in the instant application or that he refused to accept delivery of the application papers. However, if the papers are returned with a current or forwarding address, petitioner should mail a copy of the application papers to the forwarding address, return

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[1] A brief Internet search found two Bayne Steele's at telephone numbers (707) 762-4330 in California and (919) 603-5567 in North Carolina.

receipt requested, requesting that inventor Steele sign the oath or declaration after reviewing the application papers. The cover letter of instructions should include a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made in a statement by someone with firsthand knowledge of the events and must be supported by documentary evidence. See MPEP 409.03(d).

If after having presented the nonsigning inventor with a copy of the application papers, there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration. Statements by a party not present when an oral refusal is made will not be accepted. Where there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. See MPEP 409.03(d).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

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

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

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

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
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MAIL

Paper No. 40

WENDEROTH, LIND & PONACK, L.L.P.
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SUITE 800
WASHINGTON, DC 20006-1021

JUL 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Oshima, et. al. :
Application No. 09/662,695 :
Filed: September 15, 2000 :
Attorney Docket No. 2000_1130 :

DECISION GRANTING
PETITION UNDER
37 CFR §1.183

This is a decision on the June 4, 2004, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1) in addition to waiver of 37 CFR 1.125(d).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is granted.

A fee of $130.00 has been charged to Deposit Account No. 23-0975 for the petition under 37 CFR 1.183, as authorized by the petition on page 1.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on July 7, 2003. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on July 7, 2003 is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The reissue application was originally filed with a specification that did not comply with 37 CFR 1.173(a)(1). On July 7, 2003, a substitute specification was filed together with a supplemental amendment. Within the "REMARKS" section of the supplemental amendment, applicant states: "In response to the Advisory Action mailed May 27, 2003, a substitute specification and abstract, proposed drawing amendments marked in red, and formal drawings incorporating the amendments are filed herewith." No further comments by the examiner, regarding the substitute specification, are noted in the application.

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that "...the Examiner required a substitute specification because of the length of the specification and the number of amendments..". It is noted that within the Office action mailed May 27, 2003, and specifically on page two, within paragraph two, the examiner states "A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the extent of amendments renders it difficult to be entered."

This basis is considered to be sufficient for granting the petition. The rule will be waived to comply with the requirement of the examiner, since there is no other way to present the required substitute specification, and the requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. The substitute specification filed on July 7, 2003 is accepted, and will be entered.

3. The reissue application file is being forwarded to Technology Center 2600 for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Dwayne D. Bost, TC2600 SPRE, at (703) 305-4778.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

C:\kenpet5\09662695-183 waiver decision_sub_spec.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WENDEROTH LIND & PONACK LLP
2033 K STREET N.W. SUITE 800
WASHINGTON DC 20006

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Mitsuaki Oshima et al :
Application No. 09/662,695 :
Filed: September 15, 2000 :
Attorney Docket No. 2000-1130 :

ON PETITION

This is a decision on the petition, filed December 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to the examiner of Technology Center AU 2634 to consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

ROBERT BENNETT
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO CALIFORNIA 94111-3834

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APR 30 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Reissue Application of :
Bustamante et al. :
Reissue Application No. 09/662,741 :
Filed: September 14, 2000 :
Original Patent No. 5,809,431 :
Issue Date: September 15, 1998 :
For: LOCAL MULTIPOINT DISTRIBUTION :
SYSTEM :

ON PETITION

This is a decision on the petition under 37 CFR 1.183 filed April 2, 2001, under 37 CFR 1.183 requesting waiver of 37 CFR § 1.172 which requires that the assignee of the entire interest agree to the filing of this reissue application, and acceptance of the reissue application as filed.

The petition is **granted to the extent infra.**

As noted in MPEP 1410.01, where the written consent of all the assignees of the patent cannot be obtained, the filing of the reissue application, on petition, may be accepted. It appears that, in this case, there is but one assignee of the entire interest, but the ultimate successor in title is not yet known to petitioner. As further noted in § 1410.01, however:

> The reissue application can then be examined, but will not be allowed or issued without the consent of all the assignees as required by 37 CFR 1.172.

The examiner may proceed with the examination of this case, but is reminded to notify applicant in his first Office action as to the lack, on the record, of the consent of the assignee(s) of the entire interest, and to require compliance with 37 CFR 1.172 in the manner set forth in MPEP 1410.01.

This filing of this reissue application is accepted without the consent of the assignee and is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 07-05

Paper No: __

THE MAXHAM FIRM
SYMPHONY TOWERS
750 "B" STREET
SUITE 3100
SAN DIEGO CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
Bustamante, et al.	:	
Application No. 09/662,741	:	DECISION
Filing Date: 14 September, 2000	:	
Attorney Docket No.: 12755-052700US	:	

This is a decision on the petition filed on 21 April, 2005, under 37 C.F.R. §1.183, and considered more appropriately as a petition under 37 C.F.R. §1.47.

For the reasons set forth below, the petition:

- as considered under 37 C.F.R. §1.47 is **GRANTED**; and
- under 37 C.F.R. §1.183 is **DISMISSED**.

BACKGROUND

The record reflects that Petitioner alleges that one of the named inventors now has refused to sign the oath/declaration and seeks waiver of the statutory and regulatory requirements to proceed with the prosecution without the appropriate review of the application and signing of the oath/declaration. Specifically:

- the reissue application was filed on 14 September, 2000;
- following prosecution, the Examiner required submission of a new re-issue oath/declaration, and the instant petition was the reply thereto;
- the instant (with fee, request and fee for extension of time, correspondence and oath/declaration signed by the co-inventor Herman Bustamante (Mr. Bustamante) on behalf of himself and the co-inventor Horan Chen (Mr. Chen) but unsigned by Mr. Chen (and the assignee/assignee's authorized person) evidences that a copy of the entire application (description, claims, abstract, drawings) was transmitted to Mr. Chen at his last known address and that now response has been received from Mr. Chen to the request that he sign the oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

ANALYSIS

Having failed to file a properly executed oath/declaration, Petitioner contends that the Office should waive not only the Rules of Practice but statute as well (35 U.S.C. §§115 - 117) under 37 C.F.R. §1.183[1] and allow Petitioner to prosecute the instant application without satisfying the requirements of a signed oath/declaration.[2]

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[1] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:

§1.183 Suspension of the Rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

[2] As one registered to practice before the Office, Petitioner is familiar with the above-referenced statutes and the commentary at MPEP §409.03, et seq.:

409.03 Unavailability of Inventor

35 U.S.C. 116. Inventors
When an invention is made by two or more persons jointly, they shall apply for patent jointly and each make the required oath, except as otherwise provided in this title. Inventors may apply for a patent jointly even though (1) they did not physically work together or at the same time, (2) each did not make the same type or amount of contribution, or (3) each did not make a contribution to the subject matter of every claim of the patent.

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 and the omitted inventor. The Director, on proof of the pertinent facts and after such notice to the omitted inventor as he prescribes, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

Whenever through error a person is named in an application for patent as the inventor, or through an error an inventor is not named in an application, and such error arose without any deceptive intention on his part, the Director may permit the application to be amended accordingly, under such terms as he prescribes.

Petitioner's failure to act in compliance with statute(s) and regulation(s) creates no

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35 U.S.C. 118. Filing by other than inventor
Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the 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 the inventor on proof of the pertinent facts and a showing that such action is necessary to pre-serve the rights of the parties or to prevent irreparable damage; and the Director may grant a patent to such inventor upon such notice to him as the Director deems sufficient, and on compliance with such regulations as he prescribes.

37 CFR 1.47. Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor.The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.
(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the Official Gazette. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

Application papers submitted pursuant to 37 CFR 1.47 are forwarded by the Office of Initial Patent Examination (OIPE) to the Office of Petitions for a determination of whether the papers are proper, complete, and acceptable under 37 CFR 1.47 and for a decision on the petition under 37 CFR 1.47 before the application is sent to the Technology Center. Since an application without an oath or declaration executed by all of the inventors may be an incomplete application, an examiner should not mail an Office action in an application without a fully executed oath or declaration under 37 CFR 1.63 unless the application has been accorded status under 37 CFR 1.47 in a written decision on the petition.

A bona fide attempt must be made to comply with the provisions of 37 CFR 1.47 at the time the oath or declaration is first submitted. If the oath or declaration, and evidence submitted with the oath or declaration, are not acceptable, the 37 CFR 1.47 applicant will be notified of the reasons why the papers are not acceptable. The 37 CFR 1.47 applicant may request reconsideration and file supplemental evidence in a case where a bona fide attempt was made to comply with 37 CFR 1.47 from the outset.

A decision granting a petition under 37 CFR 1.47 does not alter the ownership interest or title of the application. If the nonsigning inventor has not signed an assignment document which has been recorded in the USPTO, then the 37 CFR 1.47 applicant (the company that files the petition under 37 CFR 1.47(b) and establishes proprietary interest in the application) is NOT the assignee of the entire interest of the application.

409.03(a) At Least One Joint Inventor Available
37 CFR 1.47(a) and 35 U.S.C. 116, second para-graph, requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:
(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the avail-able joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.
(B) The application must be accompanied by proof that the nonsigning inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d).
(C) The last known address of the nonsigning joint inventor must be stated. See MPEP § 409.03(e).

"extraordinary situation" requiring the invocation of the interests of justice. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay.[3] Moreover, the Office has no authority to waive the statutory requirements. Thus, Petitioner seeks a waiver pursuant to 37 C.F.R. §1.183[4] that is neither justified nor permitted.

Accordingly, the petition under 37 C.F.R. §1.183 is **dismissed**.

However, as discussed above, Petitioner has evidenced his efforts in satisfaction of 37 C.F.R. §1.47(a).

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to Technology Center 2600 for further processing in due course.

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[3] See, Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 C.F.R. 1.193(b). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Circumstances resulting from petitioner's failure to exercise due care, or lack of knowledge of or failure to properly apply the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[4] Delay resulting from the inadvertence or mistake of Petitioner does not warrant equitable tolling of the time period of 37 C.F.R. §1.193(b). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Even assuming *arguendo*, that clerical inadvertence or error caused or contributed to the delay in filing the Reply Brief, such is not a ground for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 29

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE N W
SUITE 600
WASHINGTON DC 20005-3934

COPY MAILED
MAY 14 2004
OFFICE OF PETITIONS

In re Application of
Van Hook, et al.
Application No. 09/662,832
Filed: September 15, 2000
Atty. Dkt. No.: 1778.0100002
For: ALIGNMENT AND ORDERING OF VECTOR ELEMENTS FOR SINGLE INSTRUCTION MULTIPLE DATA PROCESSING

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(b), filed April 22, 2004. This petition is being treated under 37 CFR 1.47(a).

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed September 15, 2000 without a properly executed oath or 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 instant petition lacks items (1), (2), and (3) set forth above.

As to item (1), petitioner has failed to establish that the inventors cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, and oath or declaration).

Petitioner has provided no evidence that the non-signing inventor received a complete copy of the application papers (**specification, claims, drawings, and oath or declaration**) and thereafter refused to execute the oath or declaration. The statement of facts given by James P. Hao relates to U.S. Application No. 08/947,649 (now U.S. Patent No. 5,933,650). There is no indication in Office records that Rule 47 status was accorded in U.S. Application No. 08/947,649.

Accordingly, petitioner is required to establish that the application papers (specification, including claims, drawings, and oath or declaration) for the instant application were sent to the non-signing inventor and that the non-signing inventor thereafter refused requests to execute the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor. Petitioner has failed to establish that the non-signing inventors received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If

a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the above-identified application in compliance with 37 CFR 1.63 has not been submitted. The declaration does not refer to the instant application by application number and filing date. Further, the declaration presented with the instant petition is unacceptable because it has been improperly executed. Where it is alleged in a petition under 37 CFR 1.47(a) that an inventor refuses to execute an oath or declaration, the remaining inventors should sign the declaration in their own name and on behalf of the non-signing inventor. A declaration must be submitted in which the available inventors sign on their own behalf and the signature block of the non-signing inventor is simply left blank. The attorney of record may not sign on behalf of the non-signing inventor where a petition under 37 CFR 1.47(a) is filed. *See*, MPEP 409.03(a). Petitioner is advised that any renewed petition should include a properly executed oath or declaration.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 600
WASHINGTON, DC 20005-3934

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OFFICE OF PETITIONS

In re Application of
Van Hook, et al.
Application No. 09/662,832
Filed: September 15, 2000
Atty. Dkt. No.: 1778.0100002
For: ALIGNMENT AND ORDERING OF VECTOR ELEMENTS FOR SINGLE INSTRUCTION MULTIPLE DATA PROCESSING

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed April 22, 2004.

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 September 15, 2000 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed November 9, 2000 requiring, *inter alia*, an executed oath or declaration and a surcharge.

Petitioners herein state that the instant application is a continuation of U.S. App. No. 09/263,798 (now U.S. Pat. No. 6,266,758), which is a continuation of U.S. App. No. 08/947,649 (now U.S. Pat. No. 5,933,650). Petitioners argue that a petition under Rule 47 was filed in the '649 application, but that a decision according Rule 47 status was never received. Petitioners further argue that because the '649 application issued as a patent this is an indication that the Office accepted the declaration submitted in the '649 application.

A grantable decision under 37 CFR 1.47(a) requires: 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.

As to item (1), petitioners have failed to present any evidence that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the applications for the above-identified application (specification, including claims, drawings, and oath or declaration).

As to item (2), petitioners have failed to submit an oath or declaration for the instant application executed by the available inventors.

As to item (3), the Office acknowledges receipt of the required petition fee.

As to item (4), petitioners have failed to set forth in the instant petition the last known address of the non-signing inventor.

Any renewed petition must satisfy requirements (1), (2), and (4) set forth above.

As to petitioners' attempt to rely upon an alleged Rule 47 status in a related application, petitioners are advised that a cursory review of the PALM data for the '649 application reveals no reference to either the receipt of a petition under Rule 47 nor a grant of Rule 47 status. Accordingly, petitioners have failed to establish the existence of Rule 47 status in a related application such as to allow the instant application to rely upon said status in accordance with MPEP 605.02(a).

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

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

By facsimile: (703) 872-9306

By hand:

U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
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
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE N W
SUITE 600
WASHINGTON, DC 20005-3934

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of
Van Hook, et al.
Application No. 09/662,832
Filed: September 15, 2000
Atty. Dkt. No.: 1778.0100002
For: ALIGNMENT AND ORDERING OF VECTOR ELEMENTS FOR SINGLE INSTRUCTION MULTIPLE DATA PROCESSING

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed December 14, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventors T. Van Hook, P. Hsu, W. Huffman, and E. Killian have refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (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

mb

Mailed: 5-30-06

In re application of	:	
Martin Schuessler	:	DECISION ON
Serial No. 09/662,849	:	PETITION
Filed: September 15, 2000	:	

For: SYSTEM FOR HEATING AND/OR CONVERTING AT LEAST ONE MEDIUM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed May 3, 2006.

On July 27, 2005, a non-final office action was mailed to applicant rejecting all of the claims under 35 USC 103. A reply to the office action was filed by applicants on November 28, 2005. In the reply, applicants made amendments to the claims. A final office action was mailed by the office on May 3, 2006 containing new grounds of rejection. On May 10, 2006, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the May 3, 2006 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In the non-final rejection of July 27, 2005, Claim 1 was rejected over Gonjo in view of Schussler and Watkins. In the amendment filed by applicants, claim 1 was amended to include a feature of being modular and eliminating "one of an evaporator". The examiner modified the rejection of claim 1 to be Gonjo in view of Schussler and Pow in the final office action of May 3, 2006. The Watkins and the Pow references were applied by the examiner to meet limitation that

the "insulating plates provided between the end plates and layers which are respectively adjacent to the end plates." This limitation was not added or amended by the applicant's response of November 28, 2005. There is no indication in record as to why the Watkins reference was replaced by the Pow reference to meet this limitation and that such replacement would have been necessitated by the amendment. Because the Pow reference was newly applied to only meet limitations which were not amended, the new ground of rejection in the final office action mailed May 3, 2006 is not deemed to be necessitated by amendment. Therefore, petitioner's argument that the new grounds of rejection were not necessitated by Applicant's amendments are persuasive.

Because the rejection of claim 1, based on a new ground of rejection, was not necessitated by amendment, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from May 3, 2006. Extensions of time may be obtained to file any amendments.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

STEPHEN W. PALAN
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Jussi Lemilainen
Application No. 09/662,891
Filed: September 15, 2000
Attorney Docket No. 061492-0200

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, 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 December 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2008. Accordingly, the date of abandonment of this application is December 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Office of Intellectual Property Counsel
3M Innovative Properties Company
PO Box 33427
St. Paul, MN 55133-3427

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JAN 07 2003

OFFICE OF PETITIONS

In re Application of	:	
Manoj Nirmal et al.	:	
Application No. 09/662,980	:	ON PETITION
Filed: September 15, 2000	:	
Attorney Docket No. 56001USA6A.002	:	

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 3, 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 January 4, 2001.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.
The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/663,030	09/15/2000	Thaddeus Schroeder	DP-300792	1835

7590 02/11/2002

Edmund P. Anderson
Delphi Legal Staff
Mail Code 480-414-420
P.O. BOX 5052
TROY, MI 48007-5052

EXAMINER
DEPUMPO, DANIEL G

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 02/11/2002

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

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED: 15

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Please see the initialed IDS attached.

DANIEL G. DePUMPO
PRIMARY EXAMINER

PTOL-90 (Rev. 6/84)

1 - PATENT APPLICATION FILE COPY

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

S. N. 09/663030

January 28.2002

DECISION ON PETITION UNDER 37 C.F.R. 1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The paper filed January 15, 2002 for consideration of an information disclosure statement filed after final rejection has been:

[x] GRANTED.

[] DENIED.

[] It was filed after payment of the issue fee. See 37 C.F.R. 1.97(d)(2)

The petition lacks:

[] The required fee under 37 C.F.R. 1.97(d) and 1.17(i)(1).

[] A proper certification as specified in 37 C.F.R. 1.97(d) and 1.97(e).

The information disclosure statement has been placed of record in the file and will be considered by the examiner.

Judy J. Swann
Art Unit 3611

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOSTON SCIENTIFIC CORPORATION
PATENT DEPARTMENT
(ATTN: BOX ANNUITY/MFEES)
ONE BOSTON SCIENTIFIC PLACE
NATICK, MA 01760

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
Robert Behl et al
Application No. 09/663,048
Filed: September 15, 2000
Attorney Docket No. 16807-002400

ON PETITION

This is a decision on the petition, filed November 17, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

cc:

David T. Burse
Bingham McCutchen LLP
Three Embarcadero, Suite 1800
San Francisco, CA 94111-4067

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : November 17, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/663,048

Applicant(s) : Robert Behl et al
Application No. : 09/663,048
Filed : September 15, 2000

The above-identified application has been assigned Patent No. 6,648,882 and an issue date of November 18, 2003.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 18, 2003:

> "All reference to Patent No. 6,648,882 to Robert Behl et al of California for METHODS AND SYSTEMS FOR FOCUSED BIPOLAR TISSUE ABLATION appearing in the Official Gazette of November 18, 2003 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 22 2004

BOSTON SCIENTIFIC CORPORATION
PATENT DEPARTMENT(ATTN: BOX ANNUITY/MFEES)
ONE BOSTON SCIENTIFIC PLACE
NATICK MA 01760

#28

In re Application of	:	
Robert S. Behl et al.	:	
Application No: 09/663,048	:	NOTICE OF WTHDRAWAL
Filed: September 15, 2000	:	FROM ISSUE
Title: Methods and Systems for Focused Bipolar	:	UNDER 37 CFR 1.313(b)
Tissue Ablation	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to upatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 John E. Kittle at (703)308-0873.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Greenberg Traurig LLP
Met Life Building
200 Park Avenue
New York, NY 10166

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Asif Dawoodi Gandhi et al	:	
Application No. 09/663,265	:	DECISION GRANTING PETITION
Filed: September 15, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7-16-10-14-33	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 9, 2003 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2686 for appropriate action on the reply received of even date.

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

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

April 2, 2003

Rimma Budnitskaya
Fenwick & West
Two Palo Alto Square
Palo Alto, CA 94306

In re application of:
Alexandre Marc Jacques Brouauxet DECISION ON PETITION
Serial No.: 09/663,296
Filed: September 15, 2000
For: DYNAMIC GRAPHIC USER INTERFACE

This is a decision on the petition received on December 16, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 13, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 16, 200l. The notice of abandonment was mailed November 18, 2002.

On December 16, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts mailed on January 12, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts mailed January 12, 2001.

The petition is hereby GRANTED.

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

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.

Robert A. Hulse
FENWICK & WEST LLP
Sillicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

OCT 14 2004

Technology Center 2100

In re Application of:
Alexander March Jacques Brouaux
Application No. 09/663,296
Filed: September 15, 2000
For: DYNAMIC GRAPHIC USER INTERFACE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 16, 2004.

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

The request filed September 16, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Steven Stewart
REAL NETWORKS, INC.
2601 Elliott Avenue, Ste. 1000
Seattle, WA 98121

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/27/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7071199

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626

Art Unit

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Dennis A DeBoo
400 Capitol Mall
Suite 900
Sacramento, CA 95814

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OFFICE OF PETITIONS

In re Application of	:	
Scott T. Williams, et al.	:	
Application No.: 09/663,325	:	ON PETITION
Filed: September 15, 2000	:	
Attorney Docket No. 717901.14	:	

This is a decision on the petition under 37 CFR 1.182, filed February 16, 2005, to correct the omission of applicant's middle initials.

The petition is GRANTED.

USPTO records will be corrected to show the inventors names as:

"Scott T. Williams and Alan T. Schachtely"

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

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

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

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 0 9 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

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

Paper No. 5

DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON VT 05402-0190

In re Application of: Andrew J. Davis
Application No. 09/663,407
Filed: September 15, 2000
For: SYSTEM AND METHOD FOR OPTIMIZING THE NUMBER OF UNITS OF A SECURITY PURCHASED OR SOLD ON A PERIODIC BASIS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 15, 2000, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Andrew J. Davis, is over sixty five (65) years of age.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

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

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Eric P. Schellin
2121 Crystal Drive
Suite 704
Arlington, VA. 22202

(Petitioner)

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of
Zhu, Bing-Yan., et al.
Application No. 09/663,420
Filed: September 15, 2000
For: BENZAMIDES AND RELATED INHIBITORS OF FACTOR XA

: Decision
: On Petition
: Granting
: Access

A petition for access to the above referenced application was filed by Eric P. Schellin on October 11, 2002.

The petition is **GRANTED**.

The petition requests access because U.S. Patent No. 6,376,515 claims benefit under 35 U.S.C. 120 and incorporates by reference the above referenced application. Section 1.14 is now rewritten and states in § 1.14(a)(v) that access will be granted to view the entire file of a pending application where benefit under 35 U.S.C. 120 is claimed. Also, § 1.14(a)(vi) states that access will be provided to a pending application as filed if it is incorporated by reference in a U.S. patent.

Accordingly, petitioner is entitled to access to the entire application file under § 1.14(a)(v) and to the application as filed under the § 1.14(a)(vi).

Since the above referenced application is a pending application, access to the above referenced file can only be obtained by using Public PAIR at USPTO.GOV or by ordering a copy of the application file from the Office of Public Records.

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

for Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: TOWNSEND AND TOWNSEND AND CREW, LLP (Applicant)
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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HAMILTON DESANCTIS & CHA
Michael A. DeSanctis
756 HARRISON ST.
DENVER CO 80206

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of :
Nara Rajagopalan :
Application No. 09/663,457 : DECISION ON PETITION
Filed: September 13, 2000 :
Attorney Docket No. FORT-001000 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 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 October 21, 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 January 4, 2006 (December 31, 2005, the due date, was a Saturday; January 1, 2006, was a Sunday; and January 2, 2006, was a Federal Holiday). *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, fee of $790, and an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely take appropriate action following the filing of the Notice of Appeal on October 21, 2005 is accepted as being 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.

This application is being referred to Technology Center AU 2154 for processing of the request for continued examination and for appropriate action in the normal course of business on the reply received October 2, 2006.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 305
LAKEWOOD, CO 80228

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JUN 23 2008
OFFICE OF PETITIONS

In re Application of	:	
Nara RAJAGOPALAN	:	
Application No. 09/663,457	:	DECISION ON PETITION
Filed: September 13, 2000	:	
Attorney Docket No. FORT-001000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 17, 2007, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time was obtained. Accordingly, the date of abandonment of this application is September 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office of May 17, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2154 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Parkin et al.	:	
Application No. 09/663,458	:	ON PETITION
Filed: 15 September, 2000	:	
Atty Docket No. 11068-028-999	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 20 October, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 9 February, 2004, for failure to file a timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 8 January, 2004, which set a one (1) month shortened period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 August, 2004.

Petitioner has submitted an amendment as the required reply.

---

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

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

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

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

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

The application is being referred to Technology Center Art Unit 1648 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application No. 09/663,483	:	ON PETITION
Filed : September 13, 2000	:	
Attorney Docket Number:	:	
1384.006US1	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed June 3, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an Amendment on October 8, 2004, however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 12, 2004.

Applicant next filed a Notice of Appeal on December 6, 2004. Applicant files the instant petition, Request for Continued Examination and Amendment, thereby withdrawing the appeal. See MPEP 1215.01.

This application is being returned to Technology Center 2155 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
Office of Petitions

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In re Application of	:	
Matthews et al.	:	
Application No. 09/663,483	:	ON PETITION
Filed : September 13, 2000	:	
Attorney Docket Number:	:	
1384.006US1	:	

This is a decision in response to the request for a refund, filed April 26, 2006. The request is properly treated as a petition under 37 CFR 1.181.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed June 3, 2004.

Applicant filed a petition to revive the application and extension of time fees on March 13, 2006. Because the application was abandoned, no extensions of time were available.

Applicant files the instant petition and requests a refund of the extension of time fees.

The applicable statute, 35 USC 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus, the patent and Trademark Office (PTO) may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943)(the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment).

Accordingly, the petition is granted. The extension of time fees have been refunded to deposit account 19-0473 as authorized in the instant petition.

This application is being returned to Technology Center 2155 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
Office of Petitions

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MAY 12 2008

In re Application of	:	
Abraham R. Matthews et al.	:	
Application No. 09/663,483	:	DECISION ON PETITION
Filed: September 13, 2000	:	TO WITHFRAW
Attorney Docket No. FORT-000600	:	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 24, 2006.

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

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on October 4, 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: MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 305
LAKEWOOD CO 80228

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OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	DECISION ON PETITION
Application Number: 09/663483	:	TO WITHDRAW HOLDING OF
Filing Date: 09/13/2000	:	ABANDONMENT
Attorney Docket Number: FORT-000600	:	

This is a decision on the petition, filed on August 21, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely submit a proper and timely reply to the final Office action mailed on October 18, 2007, which set a three (3) month shortened statutory period for reply. On March 18, 2008, an amendment after final rejection and a Notice of Appeal were filed, along with a two (2) month petition for extension of time under 37 CFR 1.136(a). On April 11, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply failed to place the application in condition for allowance. A Notice of Abandonment was mailed on June 4, 2008.

Petitioner asserts that the application was held abandoned in error because a Notice of Appeal was timely filed on March 18, 2008, and that an Appeal Brief was timely filed on July 30, 2008, with a three (3) month petition for extension of time.

Petitioners assert that an amendment in response to the non-final Office action was in fact timely filed. In support of the petition, petitioner submitted a copy of a date-stamped post card receipt, dated July 9, 2008, acknowledging receipt of a 19-page amendment, and an extension of time.

Upon review, petitioners' assertion is correct. The Notice of Appeal and two (2) month extension of time filed on March 18, 2008, was a proper and timely response to the final Office action

mailed on October 18, 2007. Furthermore, an Appeal Brief, and a three (3) month petition for extension of time, was timely filed on July 30, 2008, in response to the Notice of Appeal.

Accordingly, there is no abandonment in fact.

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

The petition is **GRANTED**.

The application file will be referred to Technology Center Art Unit 2146 for Examiner's review of the Appeal Brief.

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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OFFICE OF PETITIONS

In re Application of :
Manojit Sarkar :
Application No. 09/663,484 :
Filed: September 13, 2000 :
Attorney Docket No. FORT-001100 :

DECISION ON PETITION
TO WITHFRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed May 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. was revoked by the assignee of the patent application on June 30, 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: MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 305
LAKEWOOD CO 80228

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OFFICE OF PETITIONS

In re Application of
Manojit SARKAR *et al.*
Application No. 09/663,485
Filed: September 13, 2000
Attorney Docket No. 1384.009US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 2, 2006, 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 on December 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned, by operation of law, on March 22, 2005. A Notice of Abandonment was mailed on November 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 21, 2004, is accepted as having been unintentionally delayed.

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

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.

Application No. 09/663,485

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on February 2, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account No. 19-0743.

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 Technology Center AU 2155 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
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APR 29 2008

In re Application of	:	
Manojit Sarkar	:	
Application No. 09/663,485	:	DECISION ON PETITION
Filed: September 13, 2000	:	TO WITHFRAW
Attorney Docket No. FORT-000900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed June 23, 2006.

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

A review of the file record indicates that the power of attorney to SCHWEGMAN, LUNDBERG & WOESSNER, P.A. has been revoked by the assignee of the patent application on June 22, 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: MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
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OFFICE OF PETITIONS
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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of :
Ben-Zur, et al. :
Application No. 09/663,512 :
Filed: September 15, 2000 :
Attorney Docket No. 21391.701 :
Title: METHOD FOR ROUTING NETWORK :
SWITCHING INFORMATION :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 29, 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(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 CFR 1.136(a).

The above-identified application was filed September 15, 2000 without an executed oath or declaration and naming Raanan Ben-Zur, Steven L. Shepherd, Boris Reynov, Bayne G. Steele, and Nicholas A. Balatoni as joint inventors.

Accordingly, on October 31, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, the instant petition was filed January 29, 2001 wherein it is asserted that the nonsigning inventor "cannot be found or reached after diligent effort."

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks item (1) set forth above.

As to item (1), the petition fails to establish that the nonsigning inventor cannot be reached.

The declaration of Richard L. Gregory, Jr. details attempts to

forward the application papers to the nonsigning inventor at the nonsigning inventor's last known address of 3470 Andrews Drive #15, Pleasanton, CA 94588. The declaration also indicates that the declarant "performed an electronic search for information and address for Bayne G. Steele." Declarant further states that attempts to contact Bayne G. Steele have been unsuccessful.

Petitioner has not included copies of electronic search results with the instant petition. Nor has petitioner included copies of correspondence addressed to the nonsigning inventor at the nonsigning inventor's last known address.

Petitioner should be aware that a recent Office search of the LEXIS®.com database indicates that as of January 1, 2001, a BAYNE G. STEELE resided in Petaluma, CA.

Petitioner should undertake additional research efforts to determine if the nonsigning inventor can be located. If the nonsigning inventor is located, petitioner should forward a copy of the application papers (specification, claims, and drawings) to the nonsigning inventor.

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

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

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

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

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

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

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Paper No. 8

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In re Application of
Raanan Ben-Zur et al
Application No. 09/663,512
Filed: September 15, 2000
For: METHOD FOR ROUTING NETWORK SWITCHING INFORMATION

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on April 25, 2001 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed April 4, 2001, included a Declaration signed by previously nonsigning inventor Bayne G. Steele 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 Office of Initial Patent Examination for preexamination processing.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Timothy D. MacIntyre
Delphi Technologies, Inc.
Legal Staff
P.O. Box 5052 Mail Code: 480-414-420
Troy, MI 48007-5052

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JAN 15 2004

OFFICE OF PETITIONS

In re Application of
Douglas Welk, et. al.
Application No. 09/663,513
Filed: September 15, 2000
Attorney Docket No. DP-303031

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 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 April 24, 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 July 24, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and an amendment.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature 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 petitioner 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.

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

The application file is being forwarded to Technology Center 2600 for further review of the amendment filed with the instant petition.

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

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

CC: Kareem A. Howell
Baker & Daniels
300 North Meridian Street, Suite 2700
Indianapolis, IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 15 2005

In re Application of	:	
Jay M. Short	:	NOTICE OF WITHDRAWAL
Serial No. 09/663,620	:	FROM ISSUE
Filed: September 15, 2000	:	UNDER 37 CFR 1.313(b)
For: COMBINATORIAL SCREENING OF	:	
MIXED POPULATIONS OF ORGANISMS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. 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 Ponnathapu N. Achutamurthy at (571) 272-0928.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Bruce M. Kisliuk
Director, Technology Center 1600

DIVERSA CORPORATION
4955 DIRECTORS PLACE
SAN DIEGO CA 92121

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Paper No. 17

Bever Hoffman & Harms
Tri-Valley Office
1432 Concannon Blvd., Bldg. G.
Livermore, CA 94550

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FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Malcom G. Smith, Sr.	:	
Application No. 09/663,658	:	ON PETITION
Filed: September 15, 2000	:	
Attorney Docket No. ULT-005-2C1P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 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 in reply to the final Office action mailed September 10, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 11, 2002.

The application file is being forwarded to Technology Center AU 2876 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JUN 12 2003

OFFICE OF DIRECTOR
GROUP

Paper No. 4

Daniel J. Meaney, Jr.
P.O. Box 22307
Santa Barbara, CA 93121

In re Application of:	:	
SMITH *et al.*	:	DECISION ON REQUEST TO
Application No. 09/663,659	:	WITHDRAW FROM RECORD
Filed: September 15, 2000	:	
Attorney Docket No.: 5573 413436/070	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed on May 02, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period 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 Daniel J. Meaney, Jr., on behalf of himself, and all the attorneys of record. It is noted that the application is now abandoned.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to, Daniel Kehoe, at the address indicated below until otherwise notified by applicant.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Daniel Kehoe, President
980 University Avenue
Los Gatos, CA 95032

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

BEVER HOFFMAN & HARMS
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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FEB 04 2004

OFFICE OF PETITIONS

In re Application of :
Malcolm G. Smith Sr. et al :
Application No. 09/663,659 : ON PETITION
Filed: September 15. 2000 :
Attorney Docket No. ULT-005-2C2P :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 4, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 5, 2003.

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 2876 via the Office of Initial Patent Examination for issuing a corrected Filing Receipt filed January 26, 2004.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 06

JUN 2 2003

Daniel J. Meaney, Jr. Esq.
P.O. Box 22307
Santa Barbara, CA 93121

In re Application of:	:	
SMITH, MALCOLM G.	:	
Application No. 09/663,832	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: September 15, 2000	:	
For:ROTABLE PORTABLE CARD HAVING A DATA STORAGE DEVICE, APPARATUS AND METHOD FOR USING SAME	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 02, 2003.

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

The request meets all the above requirements. The request was signed by Daniel J. Meaney, Esq., the attorney of record in the above identified application, and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Daniel Kehoe, President
980 University Avenue
Los Gatos, CA 95032

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Paper No. 12

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Tri-Valley Office
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Livermore, CA 94550

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FEB 12 2004
OFFICE OF PETITIONS

In re Application of	:	
Malcolm G. Smith, Sr.	:	
Application No. 09/663,832	:	ON PETITION
Filed: September 15, 2000	:	
Attorney Docket No. ULT-010	:	

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

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 19, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 20, 2002.

The application file is being forwarded to Technology Center AU 2876 for further processing.

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

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

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

NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Robert Chojnacki	: DECISION ON REQUEST FOR
Patent Number	: 7613917	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/663,891	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1494** 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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Hughes Electronics Corporation
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Bldg. R11, Mall Station A109
El Segundo CA 90245-0956

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of
Vaughn et al
Application No. 09/664,082
Filed: September 18, 2000
Attorney Docket Number: PD-990202
Title of Invention: Multimode Transmission System Using TDMA

ON PETITION

This is a decision on the petition filed January 11, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed September 29, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 30, 2004. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 20

NATAN EPSTEIN
11377 WEST OLYMPIC BLVD., 9TH FLOOR
LOS ANGELES, CA 90064-1683

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JUL 27 2004

OFFICE OF PETITIONS

In re Application of
Bennet et al.
Application No. 09/664,085
Filed: September 18, 2000
Attorney Docket No. Q858-E

ON PETITION

This decision concerns the June 7, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

On November 12, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period.

As indicated in a March 10, 2004 Advisory Action, the February 12, 2004 proposed amendment did not place the application in condition for allowance, and was not entered. A second proposed amendment, filed on April 12, 2004 along with a request for a 2-month extension of time and the extension-of-time fee, also did not place the application in condition for allowance and was not entered by the Examiner as stated in the May 3, 2004 Advisory Action. No further correspondence was filed on or before May 12, 2004. The application became abandoned on May 13, 2004.

The instant petition requests revival of the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: **(1) the required reply to the November 12, 2003 final Office Action,** unless previously filed;[1] (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The proposed amendment enclosed with the petition, as pointed out in the attached courtesy copy of Advisory Action, again does not place the application in condition for allowance and was rejected by the Examiner. The petition is thus dismissed.

As authorized, the $665 petition fee has been charged to a credit card.

---

[1] A required reply to a final Office action, in the instant case, must be: a notice of appeal; an amendment that *prima facie* places the application in condition for allowance; the filing of a Request for Continued Examination (RCE) along with an RCE submission and the RCE filing fee, both required by 37 CFR 1.114; or the filing of a continuing application under 37 CFR 1.53(b). MPEP 711.03(c)(III)(A)(2)(b) (Rev. 2, May 2004).

A renewed §1.137(b) petition must comply with the requirements discussed above and be filed within **TWO MONTHS** of the mailing date of this decision, and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Extensions of time under 37 CFR 1.136(a) are available.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Advisory Action (July 23, 2004; courtesy copy)

July 23, 2004

Advisory Action	Application No.	Applicant(s)	
	09/664,085	BENNETT ET AL.	
	Examiner	Art Unit	
	Doug Hutton	2178	

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

THE REPLY FILED 07 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

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

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

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

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

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

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

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

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

(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

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: *See Continuation Sheet*.

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: _____.

Claim(s) withdrawn from consideration: _____.

8.☐ The 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: _____

Continuation of 5. does NOT place the application in condition for allowance because: The proposed amendment creates a 112 problem for Claim 44 in that the claim is dependent upon cancelled Claims 42 and 43.

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Paper No. 23

NATAN EPSTEIN ESQ.
LAW OFFICES OF NATAN EPSTEIN
11377 WEST OLYMPIC BOULEVARD
TRIDENT CENTER-9TH FLOOR
LOS ANGLES, CA 90064-1683

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OCT 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bennet et al. :
Application No. 09/664,085 :
Filed: September 18, 2000 :
Attorney Docket No. Q858-E :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to file a proper reply to the final Office action mailed November 12, 2003. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on April 13, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional,[1] and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (1).

In a non-provisional appliction abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:
(A) a Notice of Appeal (and appeal fee)
(B) an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or
(C) the filing of a Request for Continued Examination (RCE).
See MPEP 711.03(c)(III)(A)(2).

---

[1] 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).

As of this date, none of the above three acceptable forms of reply have been filed. The examiner has determined the current amendment does not prima facie place the application in condition for allowance. Petitioner has submitted three previous amendments each of which did not prima facie place the application in condition for allowance.

Acceptance and entry of amendments after a final Office action are at the discretion of the Office. The Office will not consider future amendments until a proper reply has been filed in the form of either a Notice of Appeal or a Request for Continued Examination.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal or the filing of a RCE. If petitioner fails to reply in the form of a Notice of Appeal (and fee) or a proper RCE, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application. A form which may be used for purposes of filing a RCE is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Natan Epstein ESQ.
LAW OFFICES OF NATAN EPSTEIN
11377 WEST OLYMPIC BOULEVARD
TRIDENT CENTER-9TH FLOOR
LOS ANGLES, CA 90064-1683

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bennet et al. :
Application No. 09/664,085 :
Filed: September 18, 2000 :
Attorney Docket No. Q858-E :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 19, 2004, 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 12, 2003. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on April 13, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The examiner will be informed of the instant decision and the RCE and amendment will be considered in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Robert W. Mason :
Application No. 09/664,105 : ON PETITION
Filed: September 19, 2000 :
Attorney Docket No. LYON 0117 PUS :

This is a decision on the petition filed March 2, 2004, to correct the assignment data on the Issue Fee Transmittal (Form PTOL-85(b)).

The petition is **granted.**

The correction to "ARCO Chemical Technology, L.P." will be forwarded to the Office of Patent Publication.

The $130.00 petition fee will be charged to Deposit Account No. 02-3978, as authorized.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

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WEBB, ZIESENHEIM, LOGSDON
ORKIN, & HANSON PC
JUN 2 3 2003

June 10, 2003

Blynn L. Shideler
Webb Ziesenheim Logsdon
Orkin & Hanson
436 Seventh Ave.
700 Koppers Build
Pittsburgh, PA 15219-1818

990015

In re application of:
Todd L. Lydic et al DECISION ON PETITION
Serial No.: 09/664,118
Filed: September 18, 2000
For: RAILROAD CAR HAVING COLD
FORMED CENTER SILL

This is a decision on the petition received on November 18, 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 November 8, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 9, 2001. The Notice of Abandonment was mailed on August 26, 2002.

On November 18, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on March 13, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on March 13, 2001.

The petition is hereby Granted.

The application has been completed for release to Technology Center 3726.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DINNIN & DUNN, P.C.
2701 CAMBRIDGE COURT
SUITE 500
AUBURN HILLS, MI 48326

In re:	Williams et al.	: Decision on Petition under
Serial No.	09/664,130	: 37 CFR 1.181 for
Filed :	September 18, 2003	: Entry of Reply Brief

For: GAS GENERANTS CONTAINING SILICONE FULES

This is a decision on the petition under 37 CFR 1.182, filed December 05, 2003 for review of the decision not entering the reply brief filed on September 2, 2003 and November 3, 2003. This petition is being as a petition under 37 CFR 1.181. There is no fee for this petition.

On July 2, 2003, an Examiners Answer was mailed.

On September 2, 2003 applicant filed a reply brief that included three Exhibits.

On October 1, 2003, a decision not to enter the reply brief was mailed. The decision stated that the reply brief was not filed in triplicate; the exhibits need to be filed separately and are subject to 37CFR 1.116 and 37 CFR 1.195. Additionally, the decision indicated that no justification for entry of the Exhibits as required under 37CFR 1.116 and 37CFR 1.195.

On November 3, 2003 applicant filed a corrected reply brief in triplicate and included justification for entry of the Exhibits.

On December 4, 2003, the examiner denied entry of the reply brief indicating that the two months from the Examiners Answer had passed and thus the reply brief was not timely.

Applicant filed the instant petition on December 5, 2003.

With respect to the timeliness of the reply brief filed on November 3, 2003, it is noted that the examiner included the following statement in the letter mailed October 1, 2003: "*Therefore, Paper No. 17 is not a reply brief, as characterized, as it stands non-entered. The time period for appellants to filed their reply brief continues to run 2 months from July 02, 2003. This time period may be extended up to 5 months in accordance with 37 CFR 1.136(a).*"

37 CFR 1.136(a) allows for extensions of time five months after a time period unless: (i) Applicant is notified otherwise in an Office action; (ii) The reply is a reply brief submitted pursuant to 37 CFR 1.193(b); ...". Given that the examiner explicitly indicated that the response

may be extended up to 5 months from July 2, 2003, an interpretation of this statement could lead one to assume the examiner was granted 5 months under 1.136(a)(i). Therefore, the reply brief filed on November 3, 2003 is timely in this instance.

Applicant argues that the Exhibits filed with the reply briefs are not "new evidence" in the context of 37 CFR 1.195 but merely a showing of "well-known scientific understanding all published and available to those of ordinary skill". In response 37 CFR 1.195 states: "*Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented*". Webster's II New Riverside University Dictionary, 1984 defines an Exhibit in law as "To present or introduce officially". The three Exhibits introduced by the applicant are clearly exhibits within the meaning of 37 CFR 1.195.

Lastly, applicant argues that the examiner first raised the issue in the examiners answer therefore preventing this evidence from being earlier presented. The issue at hand is whether carbonate increases the amount of carbon monoxide when it is used as a coolant. Applicant *for the first time during prosecution* in the Appeal Brief raised the issue that Grebert et al teach away from additional carbon monoxide. Therefore adding a carbonate as a coolant wouldn't have been obvious because it would allegedly increase the amount of carbon dioxide and therefore carbon monoxide. The examiner disagreed in the examiners answer and in the reply brief, the exhibits were presented to provide support for applicants allegation in the Brief. It is noted that the same issues were before the applicant during first action although the argument was not made by applicant until after the closing of prosecution. Thus, the fact that the examiner first raised the issue in the examiners answer is not well-taken in that the examiners action was merely in response to a new issue being presented by the applicant in the appeal brief. There was no reason why this issue could not have been made in response to the first Office action. Therefore, there is not a sufficient showing or justification as to why this exhibit could not have been earlier presented.

The applicant's petition for entry of either of the reply briefs filed on September 2, 2003 and November 3, 2003 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Donald T. Hajec, Director
Technology Center 3600
703-306-4180

mc/kjd:5/3/04

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Paper No. 10

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

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OFFICE OF PETITIONS

In re Application of	:	
Michael E. Ring, et. al.	:	
Application No. 09/664,190	:	ON PETITION
Filed: September 18, 2000	:	
Attorney Docket No. CDR 99333	:	

This is a decision on the petition under 37 CFR 1.181, filed September 13, 2004, to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 1, 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) was obtained. Accordingly, the application became abandoned after midnight January 1, 2001.

With respect to the petition under 37 CFR 1.181, applicant states that a response was timely filed on January 5, 2001. In support, petitioner provided the Office with a copy of a postcard receipt, which itemizes a response to the Missing Parts, Declaration (including Deposit Account No. to charge the sum of $130 to cover the surcharge fee), a duplicate copy of such letter and a copy of the Notice to File Missing Parts. Consequently, the postcard receipt contains a Certificate of Mailing under 37 CFR 1.8, dated January 5, 2001. The postcard also fails to contain a date stamp from the USPTO thereon.

A response to the Notice to File Missing Parts was due on January 1, 2001. However, since January 1, 2001 was a Federal Holiday, the response was due on the next succeeding day, which was January 2, 2001. Since no response was filed by January 2, 2001, the above application was properly held abandoned.

The petition under 37 CFR 1.137(b) is **DISMISSED.**

With respect to the petition under 37 CFR 1.137(b), a grantable petition must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

Office records disclose that the $130 surcharge for the late filing of the Oath/Declaration has not been submitted. The Deposit Account listed on the response filed January 5, 2001, has been closed. Therefore, petitioner must submit the late filing surcharge of $130.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES 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

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

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OFFICE OF PETITIONS

In re Application of	:	
Michael E. Ring, et. al.	:	
Application No. 09/664,190	:	ON PETITION
Filed: September 18, 2000	:	
Attorney Docket No. CDR 99333	:	

This is a decision on the petition to withdraw the holding of abandonment filed by facsimile transmission on May 22, 2006, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application. The delay in responding is regretted.

The petition now satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a $130 surcharge for the late filing of an oath/declaration; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Jean-Claude Constantin	: DECISION ON REQUEST FOR
Patent Number	: 7596237	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/664,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1081** 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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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,455,987	:	DECISION ON REQUEST
Habermann et al.	:	FOR
Issue Date: Nov. 25, 2008	:	RECONSIDERATION OF
Application No. 09/664,326	:	PATENT TERM ADJUSTMENT
Filed: Sep. 18, 2000	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
02481.1693	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred three (1403) days. For the reasons stated below, this petition is treated as a petition requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred thirty-six (736) 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 seven hundred thirty-six (736) days is **GRANTED to the extent indicated herein.**

Patentee's calculation of "B" delay fails to take into account that a notice of appeal was filed on July 7, 2003, prior to the filing of the RCE. The period consumed by appellate review, prior to the filing of an RCE, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii) and 37 CFR 1.703(b)(4). In this instance, the

period is 739 days, beginning on July 7, 2003, and ending on July 14, 2005, the day before the date the RCE was filed. Thus, B delay is 0 days.

37 CFR 1.703(a)(2) states that the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed 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.

On July 15, 2005, a reply was filed. On December 29, 2005, four months and 44 days after the day after the date the reply was filed, an Office action was mailed. Therefore, the period of adjustment for Office delay is 44 days, not 45 days as stated by patentees.

It is further noted that a period of adjustment of 528 days for Office delay was incorrectly entered in connection with the mailing of the Office action mailed on December 29, 2005. Therefore, with regard to the 528 day period, the petition is considered a letter pursuant to applicant's duty of good faith and candor. Entry of a period of adjustment of 44 days is warranted. The 528 day period of adjustment will be removed and a 44 day period of adjustment will be entered.

The patent term adjustment is revised to 736 days (845 (129 + 44 + 672) days of Office delay and 109 days of applicant delay)

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 Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction 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 **seven hundred thirty-six (736)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,455,987 B1

DATED : **November 25, 2008** **DRAFT**

INVENTOR(S) : Habermann et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 737 days.

Delete the phrase "by 737 days" and insert – by 736 days--

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN - 3 2002

#8

Mary J. Wilson
NIXON & VANDERHYE
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of	:
HIGHFIELD et al.	:
Serial No.: 09/664,363	: DECISION ON PETITION
Filed: 18 September 2000	:
Attorney Case No: 2035-38	:

This is in response to applicants' alternative petition filed 20 September 2001, for review of the restriction requirement set forth on 20 April 2001 as Paper No. 4 in the above-identified application under the provisions of 37 CFR 1.181.

BACKGROUND

The examiner set forth the following restriction requirement under 35 U.S.C. 121 in Paper No. 4.

I. *Claims 1-6, 19 and 20, drawn to a subcombination PT-NANBH viral polypeptide and method of using the polypeptide, classified in class 424, subclass 228.1 .*

II. *Claims 7-8, 19 and 20, drawn to a combination PT-NANBH viral polypeptide and a method of using the polypeptide, classified in 424, subclass 205.1.*

Upon election of Group II, Applicant is additionally required to elect one polypeptide to be examined on the merits. This requirement is not to be construed as a requirement for an election of species, since each of the polypeptides recited in alternative form is not a member of a single genus of invention, but constitutes an independent and patentably distinct invention.

(1). The polypeptide encoded by SEQ.ID. NO.5 and SEQ. ID. NO. 3.

(2). The polypeptide encoded by SEQ.ID. NO.5 and SEQ. ID. NO. 4.

III. Claims 9-13, drawn to a DNA sequence encoding the subcombination PT-NANBH viral polypeptide and a method for using the DNA sequence as a vector to transform a cell line, classified in 536, subclass 23.72.

IV. Claim 14, drawn to an antibody against a subcombination PT-NANBH viral polypeptide, classified in 424, subclass 139.1.

V. Claim 15, drawn to a method for detecting PT-NANBH viral nucleic acids, classified in 204, subclass 469.

VI. Claim 16, drawn to a kit for detecting PT-NANB viral nucleic acids, classified in 435, subclass 975.

VII. Claim 17, drawn to a method for detecting PT-NANBH viral antigen or antibody and a kit used by the method, classified in 435, subclass 7.1.

VIII. Claim 18, drawn to a kit for detecting PT-NANB viral antigen or antibody, classified in 435, subclass 975.

Upon election of Group I, III-VIII, Applicant is additionally required to elect a single sequence to be examined on the merits. This requirement is not to be construed as a requirement for an election of species, since each of the polypeptide recited in alternative form is not a member of a single genus of invention, but constitutes an independent and patentably distinct invention.

a). Sequence of the polypeptide is SEQ. ID. NO. 3.

b). Sequence of the polypeptide is SEQ. ID. NO. 4.

c). Sequence of the polypeptide is SEQ. ID. NO. 5.

d). Sequence of the polypeptide is SEQ. ID. NO. 18.

e). Sequence of the polypeptide is SEQ. ID. NO. 19.

f). Sequence of the polypeptide is SEQ ID. NO. 20.

g). Sequence of the polypeptide is SEQ. ID. NO. 21.

h). Sequence of the polypeptide is SEQ. ID. NO. 22.

The examiner reasoned that each of the polypeptide molecules recited in alternative form is not a member of a single genus of invention, but constitutes an independent and patentably distinct invention.

In the election filed 20 September 2001, Applicants elected Group III, claims 9-13 and SEQ ID NO: 21 with traverse. The traverse was on the grounds that the election of a single sequence is inappropriate as that MPEP 2434 states that the Official Gazette Notice dated 19 November 1996, entitled "Examination of Patent Applications Containing Nucleotide Sequences," requires examination in most cases of up to 10 independent and

distinct sequences. Applicant requests examination of SEQ ID NO: (a)-(h) within Group III.

In the Office Action mailed 27 November 2001, as Paper No 7, the examiner considered the traversal and maintained that each of the sequences constitutes a distinct invention. The examiner further reasoned that searching for each of the elected profiles is not limited to only one sequence but includes all the limitations complied with it. Searching for those sequences which have at least 90% homology to SEQ ID NO: 21, as required by the claim limitations, causes a significant time consuming search of both in house databases and commercial databases. The restriction requirement was made final. Claims 9-13 were examined within the scope of SEQ ID NO: 21. Claims 1-8 and 14-20 were withdrawn from examination.

In the Alternative Petition filed 20 September 2001, (which was filed prior to a Final requirement by the examiner, and therefore premature) Applicants again argued that the MPEP 2434 and the O.G. Notice require an examination of up to ten sequences in most cases and that requiring applicants to elect one sequence places a financial burden on applicants to file additional applications.

DISCUSSION

These arguments have been considered carefully and found to be not persuasive for the following reasons. The Official Gazette Notice dated 19 November 1996, is directed to the examination of patent applications containing distinct nucleotide sequences. The Official Gazette Notice is silent concerning the examination of up to ten distinct polypeptide sequences. Similarly, the Official Gazette Notice is silent concerning the examination of nucleic acid molecules that encode up to ten distinct polypeptide molecules.

The elected invention, Group III, is directed to DNA that is described not in terms of distinct polynucleotide sequences, but rather in terms of specific polypeptide sequences encoded by such. The examination of the claimed DNA sequences would not solely require a search of nucleic acid databases, but would also require a search of the polypeptide databases using the elected polypeptide sequence SEQ ID NO: 21. Additional searches of nucleic acid sequences generated by a back-translation of the elected polypeptide sequence may also be required. In order to examine more than one DNA sequence, as claimed, the Office would be required to search more than one polypeptide sequence. As such, the burden placed on the Office does not allow for examination of nucleic acids encoding more than one patentably distinct polypeptide molecule. Nor does the Official Gazette Notice or MPEP 2434 require examination of polynucleotide sequences that encode up to ten distinct polypeptide sequences.
The restriction requirement between the groups and between the polypeptide molecules was proper.

DECISION

Applicants' petition is **DENIED** for the reasons set forth above.

Applicants are under obligation to properly respond to the Office Action mailed 27 November 2001, within the time period set therein or as extendable under the provisions of 37 CFR 1.136(a).

Any request for reconsideration of this decision must be by way of a renewed petition and must be filed within TWO MONTHS of the date of mailing of this decision in order to be considered timely.

Should there be any questions with respect to this decision, please contact Special Program Examiner Julie Burke, Ph.D. by letter addressed to the Director, Technology Center 1600, Washington DC 20231. Alternatively, SPRE Burke can be reached by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

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DANBURY CT 06810-5113

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OFFICE OF PETITIONS

In re Application of	:	
Notaro et al.	:	
Application No. 09/664,390	:	ON PETITION
Filed: 18 September, 2000	:	
Atty Docket No. 20846	:	

This is a decision on the petition filed 26 April, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application, which is first treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

The application became abandoned on 10 July, 2003, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 9 April, 2003, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 19 August, 2003.

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioners assert that a timely reply in the form of a Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) were filed by facsimile on 25 June, 2003. In support, petitioners have provided a copy of the RCE Transmittal form showing a facsimile timestamp dated "Jun 25."

37 CFR 1.6 states, in pertinent part:

1.6 Receipt of correspondence.

(a) Date of receipt and Express Mail date of deposit. Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:
(1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.
(2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.
(3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.
(4) [Reserved]
(b) [Reserved]
(c) Correspondence delivered by hand. In addition to being mailed, correspondence may be delivered by hand during hours the Office is open to receive correspondence.
(d) Facsimile transmission . Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3). To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the United States Patent and Trademark Office. The application number of a patent

application, the control number of a reexamination proceeding, the interference number of an interference proceeding, or the patent number of a patent should be entered as a part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:
(1) Correspondence as specified in § 1.4(e), requiring an original signature;
(2) Certified documents as specified in § 1.4(f);
(3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D) and (F), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;
(4) Drawings submitted under § § 1.81, 1.83 through 1.85, 1.152, 1.165, 1.174, or 1.437;
(5) A request for reexamination under § 1.510 or § 1.913;
(6) Correspondence to be filed in a patent application subject to a secrecy order under § § 5.1 through 5.5 of this chapter and directly related to the secrecy order content of the application;
(7) [Reserved]
(8) [Reserved]
(9) Correspondence to be filed in an interference proceeding which consists of a preliminary statement under § 1.621; a transcript of a deposition under § 1.676 or of interrogatories, or cross-interrogatories; or an evidentiary record and exhibits under § 1.653.

37 CFR 1.8 states, in pertinent part:

§ 1.8 Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with

the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The showing of record is that petitioners did not use a Certificate of Mailing or Transmission in accordance with 37 CFR 1.8. Although petitioners' reply bears a facsimile transmission report dated "Jun 25 '0," petitioners clearly did not comply with 37 CFR 1.8 in that a Certificate of Mailing or Transmission was not completed on the RCE Transmittal form, or on any of the other papers submitted therewith. As petitioners did not include a proper Certificate of Mailing or Transmission with the reply, the correspondence cannot be considered to have been filed on 25 June, 2003. Additionally, the last digit of the year on the date on the facsimile transmission report has been obscured such that the year of transmission cannot be determined. Further, the fax number to which the RCE was sent, according to the facsimile transmission report, 703-305-7718, does not appear to be an official facsimile number for filing responses to Office actions. More to the point, however, failure to include the Certificate of Mailing or Transmission constitutes an error on the part of petitioners.

In summary, the showing of record suggests, at best, that petitioners intended to timely file an RCE. However, it is unclear to whom the RCE was sent, or the year in which it was filed. Additionally, petitioners failed to include a Certificate of Mailing or Facsimile Transmission. As such error was one on the part of petitioners, the holding of abandonment cannot be withdrawn, and the petition is dismissed.

PETITION UNDER 37 CFR 1.137(a)

At the outset, the petition lacks the required reply. With the present petition, petitioners filed a RCE under 37 C.F.R. § 1.114, including a submission in the form of an IDS. The Office notes that payment of the issue fee is the required reply in order to revive the application for failure to submit a timely response to the Notice of Allowance. Accordingly, the $1,400.00 issue fee must be submitted with any renewed petition.

Petitioners are advised that the issue fee paid in the present application cannot be refunded. However, if the application is allowed again, petitioner may request that the $1,80.00 be applied towards the issue fee required by the new Notice of Allowance.[2]

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 be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

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[2] The request to apply the issue fee to the new Notice of Allowance 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 at the time of payment must be submitted. **Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice of Allowance and payment of any balance due will result in the abandonment of the application.**

[3] 35 U.S.C. § 133.

[4] [3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138

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).[5] 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.[6]

The showing of record is that petitioners failed to follow the procedures set forth in 37 CFR 1.8. 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.[6] 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.[7]

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioners in not properly filing a timely response to the Notice of Allowance and Issue Fee Due rather than as a result of unavoidable delay. As the showing presented is insufficient to establish unavoidable

---

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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] 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).

[7] 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).

delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b),[8] 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).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

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[8] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must 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 Petition
Commissioner for Patents
P.O. 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 related to this decision should be directed to the undersigned at 571-272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-05

PRAXAIR INC
LAW DEPT - MI557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Notaro et al.	:	
Application No. 09/664,390	:	ON PETITION
Filed: 18 September, 2000	:	
Atty Docket No. 20846	:	

This is a decision on the petition filed 30 June, 2005, under 37 CFR 1.137(b).[1]

The petition is **dismissed**.

The application became abandoned on 10 July, 2003, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 9 April, 2003, which set a three (3) month statutory period for reply. Notice of

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Copied from 09964390 on 08/04/2005

Abandonment was mailed on 19 August, 2003. The petition filed on 26 April, 2005, was dismissed on 3 June, 2005.

Receipt of the issue and publication fees is acknowledged.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Copied from 09964390 on 08/04/2005

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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PRAXAIR INC
LAW DEPT - MI557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Notaro et al.	:	
Application No. 09/664,390	:	ON PETITION
Filed: 18 September, 2000	:	
Atty Docket No. 20846	:	

This is a corrected decision on the petition filed 30 June, 2005, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

The application became abandoned on 10 July, 2003, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 9 April, 2003, which set a three (3) month statutory period for reply. Notice of

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Abandonment was mailed on 19 August, 2003. The petition filed on 26 April, 2005, was dismissed on 30 June, 2005.

Receipt of the issue and publication fees is acknowledged.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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OCT 17 2003
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JUL 08 2003

PAPER NO.

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JUL 03 2003
OFFICE OF PETITIONS

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3202

In re Application of
Takashi Koizumi, et al.
Application No. 09/664,440
Filed: September 18, 2000
Attorney Docket No. Q59337

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on July 2, 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 June 16, 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 2854 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language 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

Anne V. Dougherty Esq.
3173 Cedar Road
Yorktown Heights NY 10598

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of :
CHAPMAN, et al. :
Application No. 09/664,460 :
Filed: September 18, 2000 :
Attorney Docket No.: YOR920000625US1 :

DECISION ON PETITION

This is a decision on the Request for Entry of Issue Fee and Reversal of Abandonment, filed January 9, 2007, urging, in effect, that the Issue Fee was timely submitted, via facsimile transmission under 37 CFR 1.8(a), on June 28, 2006. The present Request has been treated as a Petition under 37 CFR 1.8(b) (hereinafter "present Petition") requesting that the United States Patent and Trademark Office (USPTO) (1) acknowledge June 28, 2006 as the date the Issue Fee was timely submitted and (2) withdraw the Notice of Abandonment. No petition fee is required.

The petition is **GRANTED**.

The Notice of Abandonment mailed July 31, 2006 is hereby **WITHDRAWN**.

The above-identified application was filed with the USPTO on September 18, 2000. A Notice of Allowance and Fee(s) Due was subsequently mailed on March 29, 2006, which set for a three month statutory period in which to submit the requisite Issue Fee. A Notice of Abandonment was mailed on July 31, 2006 that indicated that the application became abandoned because the requisite Issue Fee was not submitted on or before the three month statutory deadline date, i.e., June 29, 2006.

On January 9, 2007, the present Petition was filed urging that the requisite Issue Fee was, in fact, timely filed with the USPTO, via facsimile transmission under the provisions of 37 CFR 1.8(a), on June 28, 2006. The present petition was accompanied by various statements and documents evidencing the June 28, 2006 facsimile transmission Issue Fee payment. Additional copies of the items submitted via facsimile on June 28, 2006 were also provided on October 20, 2008 for completeness of the application file record.

The statements and documentary evidence submitted with the present Petition and on October 20, 2008 are sufficient to establish with reasonable certainty that the requisite Issue Fee was, in fact, timely filed with the USPTO via facsimile and incompliance with the provisions of 37 CFR 1.8(a), on June 28, 2006. As such, it is appropriate for the USPTO to acknowledge that payment of the Issue Fee timely occurred on June 28, 2008 and withdraw the Notice of Abandonment.

Accordingly, the USPTO accepts the copy of the PART B – FEE(S) TRANSMITTAL (PTOL-85) filed with the present Petition as a replacement for the timely facsimile transmitted original document originally filed June 28, 2006. The requisite $1400.00 Issue Fee has been charged to Deposit Account 50-0510, as authorized in the present Petition and the original PART B – FEE(S) TRANSMITTAL (PTOL-85) filed June 28, 2006.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

This application is being referred to Office of Publications for continued post Issue Fee payment processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Nicos A. Vekiarides	:	
Application No. 09/664,499	:	DECISION ON PETITION
Filed: September 18, 2000	:	
Attorney Docket No. 100201747-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 11, 2007. Accordingly, the date of abandonment of this application is July 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature 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 petitioner 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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so 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 in accordance with MPEP 601.03.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached copy of the Fee(s) Transmittal form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

Enclosure: Copy of Part B – Issue Fees(s) Transmittal

Cc: TIMOTHY D. MACINTYRE
HARNESS, DICKEY & PIERCE, PLC
PO BOX 828
BLOOMFIELD HILLS, MI 48303

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)

22879 7590 04/11/2007

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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.
09/664,499	09/18/2000	Nicos A. Vekiarides	1942.0040000	4607

TITLE OF INVENTION: INTERNET PROTOCOL DATA MIRRORING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$0	$1400	07/11/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
EL CHANTI, HUSSEIN A	2157	709-227000

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 submitted:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, 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).

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-27-08

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/664499 Patent No.: 7386610

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: X

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Please enter all of the amendments filed on 8/7/2008.

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2457
Art Unit

09/664840

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-16-05

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6838594

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ~~PK 3-922~~ S/T 9A22
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.

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Correction is needed to correct claim dependency

EM

SPE

1638

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

ROBERT J. DEPKE LEWIS T STEADMAN
HOLLAND & KNIGHT
131 SOUTH DEARBORN - 30TH FLOOR
CHICAGO, IL 60603

COPY MAILED
FEB 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Dan Kikinis	:	
Application No. 09/664,843	:	ON PETITION
Filed: September 19, 2000	:	
Attorney Docket No. 0046883P020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 22, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 23, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2671.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JUL 07 2005

OFFICE OF PETITIONS

In re Application of :
Ilya Trakht et al :
Application No. 09/664,958 : ON PETITION
Filed: September 18, 2000 :
Attorney Docket No. 60240/JPW/SHS

This is a decision on the petition, filed June 30, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SOFER & HAROUN L.L.P.
317 MADISON AVENUE
SUITE 910
NEW YORK NY 10017

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Antonacci et al.	:	
Application No. 09/664,969	:	DECISION ON PETITION
Filed: September 16, 2000	:	
Attorney Docket No. **865-002u**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of June 14, 2006 is accepted as having been unintentionally delayed. Therefore the RCE is improper and the fee of $405 is being refunded.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 271-272-2783.

This application is being referred to Technology Center AU 2625 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

MAILED

JUL 11 2001

Technology Center 2100

Freedman & Associates
Suite 350
117 Centrepointe Drive
Nepean, Ontario , CAX K2G 5

In re Application of: Kamel Shaath et al.	)	
Application No.: 09/665,065	)	**DECISION ON REQUEST FOR**
Filed: September 19, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR	)	
ELECTRONIC FILE LIFECYCLE	)	
MANAGEMENT	)	

This is a decision on the Request To Withdraw from Representation filed May 29, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

There is no indication that the applicant has been informed of Mr. Freedman's request for withdrawal. Therefore, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6309530
Issue Date: October 30,2001
Application No. 09665112
Filed: September 20,2000
Attorney Docket No. 51500g

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6309530	2001-10-30	09665112	2000-09-20	

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	/Fred Wolgel/	Date (YYYY-MM-DD)	2010-01-22
Name	Fred Wolgel		
Enter Reel and Frame Number		Remove	
Reel Number	011132	Frame Number	0927
Enter Reel and Frame Number		Remove	
Reel Number	016377	Frame Number	0871
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
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ALEXANDRIA, VA 22313-1450
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Paper No. 19

ROBERT CHARLES BEAM
US ARMY TACOM/ARDEC, BLDG 3
AMSTA-AR-GCL
PICATINNY ARSENAL, NJ 07806

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of
Manning et al.
Application No. 09/665,190
Filed: September 12, 2000
Attorney Docket No. 1995-18-A2

ON PETITION

This decision concerns the July 2, 2003 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

On January 29, 2002, a non-final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On July 18, 2002, a response was filed, but was not responsive to the January 29, 2002 Office Action.

On September 16, 2002, a second non-final Office action was mailed, providing a 1-month shortened statutory reply period.

On January 16, 2003, a response was filed along with a request for a 3-month extension of time and the $930 extension-of-time fee.

On January 30, 2003, an advisory action letter was mailed, informing Applicants that the January 16, 2003 reply was not responsive to the January 29, 2002 Office Action.

On March 14, 2003, a response was filed along with a request for an additional 2-month extension of time and the requisite fee,[1] but was not fully responsive to the January 29, 2002 Office Action, in that, the declaration continues to refer to an application different from the instant application.

The application became abandoned on March 17, 2003.

The petition requests to revive the application based on unintentional abandonment under 37 CFR 1.137(b). For this application, such a petition must be accompanied by:

---

[1] A maximum 5-month extension of time is permitted in the 9/16/02 Office Action. 3 months were requested on 1/16/03. Only a 2-month extension of time remains on 3/14/03. The USPTO inadvertently charged Deposit Account No. 19-2201 $1,970 (5-month extension of time) for the 3/14/03 response, rather than $1,040 ($1,970 - $930 = $1,040). The overcharge of $930 has been credited to the same deposit account.

(1) A proper oath or declaration in response to the January 29, 2002 non-final Office Action;

(2) The $1,300 petition fee; and

(3) A statement that the entire delay in filing the required oath or declaration from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The petition includes items (2) and (3).

However, as to item (1), the petition encloses a declaration consisting of: 1 page of "1 of 2"; 4 pages of "2 of 2" each signed by 1 inventor; 3 pages of "3 of 4" each signed by 1 inventor different from those identified on pages "2 of 2." These pages appear to be pages 1 of 3, 2 of 3, and 3 of 3. However, as signed and presented, the declaration evidently is a composite one. In other words, each inventor appears to have been presented only the page containing his/her signature block for signing, and was not shown either the page identifying the application or claimed invention, or the inventive entity. Therefore, the declaration is defective for non-compliance with 37 CFR 1.63(a) and (b). The petition is thus dismissed.

A renewed §1.137(b) petition (no fee) must:

-be filed within **TWO (2) MONTHS** of the mailing date of this decision, unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained;[2]

-include a proper oath or declaration as stated above; and

should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

by facsimile: Commissioner for Patents, USPTO
Office of Petitions
(703) 308-6916

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[2] 37 CFR 1.137(e).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 21

ROBERT CHARLES BEAM
US ARMY TACOM/ARDEC, BLDG 3
AMSTA-AR-GCL
PICATINNY ARSENAL, NJ 07806

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NOV 2 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Manning et al. :
Application No. 09/665,190 :
Filed: September 12, 2000 :
Attorney Docket No. 1995-18-A2 :

This decision concerns the renewed petition under 37 CFR 1.137(b), filed by facsimile on November 19, 2003.

The petition is **GRANTED.**

The previous petition under 37 CFR 1.137(b), filed on July 2, 2003, was dismissed on September 22, 2003, in that, the declaration was defective.

The instant renewed petition encloses a proper set of declaration and is thus granted.

No petition fee is owed.

The application file is being returned to Technology Center 3600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE CLOROX COMPANY
POST OFFICE BOX 24305
OAKLAND CA 94623-1305

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Ashot Serobian	:	
Application No. 09/665,245	:	ON PETITION
Filed: September 18, 2000	:	
Attorney Docket No. 380.42	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a timely reply to the final Office action mailed June 25, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 26, 2002.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1713.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Igor Stojiljkovic et al	:	
Application No. 09/665,358	:	ON PETITION
Filed: September 19, 2000	:	
Attorney Docket No. 94-784-L	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2005, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

The above-identified application was held abandoned for failure to reply in a timely manner to an Office communication mailed July 6, 2004, which set a period for reply of one (1) month or thirty (30) days (whichever is later).

A review of the official file record discloses that an Office communication was mailed on July 6, 2004, setting a one (1) month or thirty (30) days **nonstatutory** period for reply. A reply was due on or before August 6, 2004. However, as 37 CFR 1.136(a) provides that an applicant may extend the time period for reply up to five months after the time period set for reply and since the period set in the Office communication of July 6, 2004, is a **nonstatutory** period, extensions of time up to and including January 6, 2005 were available.[1] Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition was prematurely filed and is dismissed as involving a moot issue.

In view of the above and as authorized, the appropriate five month extension of time fee of $1,080 will be charged to Deposit Account No. 13-2490. Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the $750 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.
This matter is being referred to Technology Center AU 1647.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] See MPEP 714.03 (Rev. 1. Feb. 2003)

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POLLOCK VANDE SANDE & AMERNICK RLLP
P O BOX 19088
WASHINGTON, DC 20036-3425

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JAN 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Dogulas O. Powell et al	:	
Application No. 09/665,366	:	ON PETITION
Filed: September 19, 2000	:	
Attorney Docket No. EN9-99-026	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 10, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on September 10, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed October 14, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 11, 2004.

A cursory review of the present petition has petitioner alleging that a complete reply was timely faxed to the USPTO on November 10, 2004. However, the Certificate of Transmission Under 37 CFR 1.8 has the wrong date; i.e., september 10, 2004 rather than November 10, 2004. Therefore, the mailing certificate was defective and could not establish a proper date of receipt of the response under 37 CFR 1.8.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum

extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $980 extension of time submitted with the petition on November 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUL 23 2007

OFFICE OF PETITIONS

Lon S. Safko
2036 East Catamaran Drive
Gilbert AZ 85234

In re Patent No. 7,072,949 :
Issue Date: July 4, 2006 :
Application No. 09/665,368 : NOTICE
Filed: September 19, 2000 :
Attorney Docket No. 0200865 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

CC: BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE
SUITE 2200
PHOENIX, AZ 85004-4406

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

FARJAMI & FARJAMI LLP
16148 SAND CANYON
IRVINE CA 92618

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NOV 01 2002

OFFICE OF PETITIONS

In re Application of
Bin Zhao ET AL.
Application No. 09/665,422
Filed: September 20, 2000
Attorney Docket No. (NONE CITED)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in an appropriate and timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 14, 2000, which set forth a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) or reply were obtained during the allowable period. Accordingly, this application became abandoned on January 15, 2001. A Notice of Abandonment was mailed August 20, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Petitioner filed an application with the basic filing fee and an assignment recordation. The check submitted to pay the fees was returned and a Notice of Missing Parts was issued indicating that a basic filing fee (at that time $690.00), a late filing fee ($130.00) and a returned check fee ($50.00) must be submitted. According to the evidence provided by Petitioner a check was submitted to the Office on April 24, 2000 in the amount of $780.00 in order to address the fee required. That submission did not meet the requirement set forth in the Notice of Missing Parts in that 1) the check was $90.00 less than the amount due, and 2) the submission of the check was outside the allowable period of response. However the fees for the assignment recordation ($40.00) and the returned check ($50.00) were charged, leaving $690.00 in suspense. A Notice of Abandonment was mailed on August 20, 2002. In response to the Notice of Abandonment Petitioner submitted the instant petition with checks in the amounts of $1530.00 and $1280.00. The payment of $1280.00 was accepted as payment for the petition fee. Fifty dollars ($50.00) of the $1530.00 payment was added to the $690.00 held in suspension in order to accept a payment of the basic filing fee, which had increased to $740.00 at the time of its proper filing with the instant petition. The basic filing fee was due by midnight, January 14, 2001 and could be have been extended to June 14, 200. Because an extension of time of the period set by the Notice of Missing Part cannot be accepted after the extendable period passed, and the applicant submitted the extension of time with the instant petition,

the payment of $1440.00 has been credited to Deposit Account 50-0731 as authorized. The overpayment of $40.00 has also been credited to Deposit Account 05-0731. The aforementioned Deposit Account has also been charged $130.00 for the requisite late filing fee mentioned in the Notice of Missing Parts and as authorized by the instant petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or 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

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED
APR 19 2005
Technology Center 2100

In re Application of: TSUCHIDA, et al.
Application No. 09/665,448
Filed: September 19, 2000
For: METHOD AND SYSTEM OF DATABASE DIVISIONAL MANAGEMENT FOR PARALLEL DATABASE SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed February 18, 2005, 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 file a timely response to the Office Action mailed on January 25, 2002. A Notice of Abandonment was mailed September 24, 2002.

The petition is **GRANTED**.

In support of the petition, Petitioner provides a statement that Applicant had not received both of the above-mentioned Office Action and the Notice of Abandonment. Petitioner indicated that the reason for non-receipt of the documents was that the documents were erroneously mailed to a wrong correspondence address. Petitioner further asserted that the correct address was identified in previously submitted papers to be associated with Customer Number 020457, and this Customer Number 020457 does not correspond, nor being anyway related to the [recipient] address shown on each of the above described documents.

Upon inspecting records on file for the application, it is determined that a typographic error was made at the time of receiving the filed application at the Patent Office. The Customer Number, as recorded by the Patent Office at the filing date of September 19, 2000, was incorrectly entered as "02047". The correct Customer Number should have been "020457". Due to this oversight, subsequent outgoing correspondences from the office have been erroneously mailed to the wrong

correspondence address rather than the address associated with the correctly designated Customer Number. Due to the above mistake, both the Office Action mailed January 25, 2002 and the Notice of Abandonment mailed September 24, 2002, were sent to the incorrect address. Therefore, it is deemed that Applicants alleged failure to timely file a proper reply to the January 25, 2002 Office Action was a direct result of the erroneous mailing by the U.S. Patent and Trademark Office.

However, in order to minimize future errors similar to the above situation, Petitioner should ensure that a Customer Number included in future submissions of any document to not exceed **five** digits. The error as occurred in this case may have been caused by Applicant's incorrect submission of the Customer Number containing six digits; see original Utility Patent Transmittal filed on September 19, 2000.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED.**

Note, the heading of the Petition erroneously refers to the Patent Rule under 37 CFR § 1.131. In the future, the correct rule to petition under is 37 CFR § 1.181.

The application file is being forwarded to the technical support staff to **WITHDRAW** the holding of abandonment, and subsequently to re-date and re-mail the Office Action mailed in January 25, 2002.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/18/05

SDL: 04/15/05

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
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MAILED #5
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Office of Director
Technology Center 1600

EZRA SUTTON PA
PLAZA 9 900 ROUTE 9
WOODBRIDGE , NJ 07095

In re Application of
Edward L. Tobinick
Serial No.: 09/665,529
Filed: September 19, 2000
Attorney Docket No.: 3.0-009

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed September 19, 2000, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision. The provisional election of claims 30-49 and 98-99 is noted.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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CAHN & SAMUELS
2000 P STREET NW
SUITE 200
WASHINGTON DC 20036

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APR 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Harry B. Smith	:	
Application No. 09/665,658	:	ON PETITION
Filed: September 20, 2000	:	
Attorney Docket No. 802.0003	:	

This is a decision on the petition, filed April 17, 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 9, 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 2614 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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LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Takaharu Kitada :
Application No. 09/665,667 :
Filed: September 20, 2000 :
Attorney Docket No. SON-1905 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed April 16, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on March 28, 2007, stating that this application is abandoned for failure to take appropriate action in a timely manner after the February 16, 2007, decision of the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated.

Petitioner contends that the holding of abandonment of this application was improper. In this regard, petitioner states that, pursuant to the provisions of 37 CFR 1.304(a), "[a]pplicant has two (2) months from the mail date of the Decision to respond." Therefore, petitioner had up to and including April 16, 2007, within which to take appropriate action. The petition is accompanied by a request for continued examination (RCE), an amendment (submission), and a $790 fee for the RCE.

The rule at 37 CFR 1.304(a)(1) states:

> The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences.

Further, the rule at 37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 * *

Additionally, attention is directed to MPEP 1214.07 Reopening of Prosecution, which states:

> Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered. See MPEP § 706.07(h), paragraph I.

In view of the above, petitioner is correct that the time period for taking action after the mailing of the Board decision is two (2) months from the February 16, 2007, mailing date thereof. Accordingly, the mailing of the Notice of Abandonment on March 28, 2007, was premature as the period for reply to the Board decision had not yet expired. Additionally, the appropriate reply to continue prosecution in the form of an RCE, $790 fee therefor, and an amendment (the submission required by 37 CFR 1.114) were submitted within the two (2) month period for replying to the April 16, 2007, Board decision.

In view of the above, the holding of abandonment is improper. Accordingly, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being referred to Technology Center AU 2876 for processing of the RCE and for taking appropriate action in the normal course of business on the submission under 37 CFR 1.114, filed April 16, 2007.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
ROSEN, et al.	:	
Application No. 09/665,743	:	DECISION GRANTING PETITION
Filed: September 20, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 990341	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 13, 2006, 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 26, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2616 processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

THE WORKS USA, INC.
Attn: John J. Pereless
185 Route 36
West Long Branch, NJ 07764

In re Application of : J. Pereless et al.
Application No. 09/665,757
Filed: September 20, 2000
For: METHOD AND SYSTEM FOR RESUME STORAGE AND RETRIEVAL

DECISION ON REQUEST TO WITHRAW AS ATTORNEY OR AGENT

This is a decision on the three separate Requests To Withdraw from Representation filed August 20, 2001 under 37 C.F.R. § 1.36 by Robert J. Koch, Lisa M. Coward and Mark Ungerman.

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.

Each of the requests filed August 20, 2001 meet the above requirements. Accordingly, these requests are **GRANTED**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawing attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office. A courtesy copy is being forwarded to the withdrawing attorney(s).

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PHILIP D FREEDMAN PC
P.O. BOX 19076
ALEXANDRIA, VA 22320

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
James Claude Carnahan et al	:	
Application No. 09/665,767	:	ON PETITION
Filed: September 20, 2000	:	
Attorney Docket No. RD-27,100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed November 12, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 13, 2004.

The drawings filed on April 29, 2004 have been approved by the Draftsperson. A copy of the Notice of Draftsperson's Patent Drawing Review (PTO-948) is attached.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: PTO-948

SPE: D. Bost

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20070621

DATE : 5/14/07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/665,786 Patent No.: 7130251

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

2627
Art Unit

09/665790

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5307 **Paper No.:** _____

TO SPE OF : ART UNIT 3639 - THOMAS DIXON

SUBJECT : Request for Certificate of Correction on Patent No.: 7076444

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:

claim changes do not apply; the claims were renumbered by the examiner at time of issue; claim 61 was renumbered as claim 1, claims 21-52 were renumbered 2-33. (H)

John Hayes

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER
SPE

3628
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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)
6697478	2004-02-24	09665839	2000-09-20	

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	/Maurice J. Pirio/	Date (YYYY-MM-DD)	2009-05-08
Name	Maurice J. Pirio	Registration Number	33273

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. 6697478
Issue Date: February 24,2004
Application No. 09665839
Filed: September 20,2000
Attorney Docket No. 423428001US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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, D.C. 20231
www.uspto.gov

Paper No. 11

CATHY A. KODROFF
HOWSON AND HOWSON
SPRING HOUSE CORPORATE CENTER
P O BOX 457
SPRING HOUSE PA 19477

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
James M. Wilson et al :
Application No. 09/665,852 :
Filed: September 20, 2000 :
Attorney Docket No. GNV30AUSA :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on 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 non-final Office action mailed November 26, 2001, which set a shortened statutory period for reply of three (3) months. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 27, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680. Any questions concerning the examination process or status of this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1648.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/2007

TO SPE OF : ART UNIT 3600 (3616)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,953,690

Attn: Maria Marvich

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 change to (*) Notice as req. 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: MM Approved

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

SAP Global IP c/o Cooley Godward Kronish LLP
William S. Galliani
777 6th Street NW, Suite 1100
Washington, DC 20001

Mail Date: 04/26/2010

Applicant	: Chris Connaughton	: DECISION ON REQUEST FOR
Patent Number	: 7661062	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/665,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1054** 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
www.uspto.gov

#21

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of
Masayoshi Iwase, et al.
Application No. 09/665,899
Filed: September 20, 2000
Attorney Docket No. 10517/74

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 24, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 24, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1745 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

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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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 7.138,200 :
Issued: November 21, 2006 :
Application No. 09/665,899 :
Filed: September 20, 2000 :
Attorney Docket Number: 10517/74 :

ON PETITION

This is a decision on the petition, filed November 13, 2006, under 37 CFR 1.182, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition under 37 CFR 3.81 is **DISMISSED**.

Petitioner states that the correct assignee is TOYOTA JIDOSHA KABISHIKI KAISHA and that and a second assignee was incorrectly included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that upon issuance the correct assignee be indicated on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

It is noted that when a request to issue a patent to an assignee, or as in this case to correct assignment information, filed after payment of the issue fee, a certificate of

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[1] *See* Official Gazette of June 22, 2004

correction must be submitted as there is no time to process these requests before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

The instant petition was filed after payment of the issue fee and prior to issuance but was not submitted with a request for a certificate of correction (and fee) as required by 3.81(b).

Furthermore, what is printed on the face of the patent is the information printed on the PTOL-85(b). Petitioner has not provided any information to show that TOYOTA JIDOSHA KABISHIKI KAISHA is the only assignee.

If petitioner would like to have a certificate of correction issued with the name of the assignee, a renewed petition under 37 CFR 3.81 with proof of the assignment (i.e. Reel and Frame Number where assignment was recorded) and the appropriate fees as required by 37 CFR §§ 1.323 and 3.81(b) will be required.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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SEP 12 2008

In re Patent No. 7,138,200	:	
Issued: November 21, 2006	:	
Application No. 09/665,899	:	ON PETITION
Filed: September 20, 2000	:	
Attorney Docket Number: 10517/74	:	

This is a decision on the petition, filed September 10, 2007 under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee information was incorrectly noted on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee, TOYOTA JIDOSHA KABUSHIKI KAISHA, on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Office assignment records however, reflect that TOYOTA JIDOSHA KABUSHIKI KAISHA is the assignee of record. Accordingly, as the request complies with the

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[1] *See* Official Gazette of June 22, 2004

provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee is set at $130.00 not $400.00 as was paid with the petition filed November 13, 2006 thus, the difference will be credited to petitioner's deposit account no. 11-0600. The fee for the certificate of correction has been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

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

Paper No. 18

ROGER R WISE
PILLSBURY MADISON & SUTRO LLP
725 SOUTH FIGUEROA STREET, SUITE 1200
LOS ANGELES, CA 90017-5443

COPY MAILED

OCT 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Morihiro Murata	:	
Application No. 09/665,912	:	ON PETITION
Filed: September 20, 2000	:	
Attorney Docket No. 51270-245656	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed January 12, 2004. Accordingly, this application became abandoned on April 13, 2004.

The file is being forwarded to Technology Center 2600 for review of the Request For Continued Examination (RCE), submitted September 14, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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)
6785427	2004-08-31	09665917	2000-09-20	M-8679 US (ARC-P117)

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 C Hsia/	Date (YYYY-MM-DD)	2008-11-14
Name	/David C. Hsia	Registration Number	42433

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. 6785427
Issue Date: August 31,2004
Application No. 09665917
Filed: September 20,2000
Attorney Docket No. M-8679 US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 14,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 14,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

COPY MAILED

OCT 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,248,287	:	
Issued: July 24, 2007	:	
Application No. 09/665,950	:	ON PETITION
Filed: September 21, 2000	:	
Attorney Docket No. 32405W041	:	

This is a decision on the petition under 37 CFR 1.182, filed August 13, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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

Sandia National Laboratories
Patent & Licensing Center
P. O. Box 5800 – MS-0161
Albuquerque, New Mexico 87185-0161

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NOV 1 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Danelle Mary Tanner, et al.	:	
Application No. 09/665,978	:	ON PETITION
Filed: September 20, 2000	:	
Attorney Docket No. SD6483/S93721	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 26, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 27, 2000.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

JOHN F NETHERY
McAndrews Held & Malloy Ltd
34th Floor
500 W Madison Street
Chicago, IL 60661

COPY MAILED

NOV 12 2002

OFFICE OF PETITIONS

In re Application of
Richard Michael Roffers
Application No. 09/666,000
Filed: September 20, 2000
Attorney Docket No. 15-XT-4847

DECISION GRANTING PETITION

This is a decision on the "Petition to Accord Filing Date for Express Mail Correspondence Not Received by P.T.O. (37 CFR 1.10(e)," filed September 23, 2002. The petition is properly treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed September 13, 2001. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the Office action, with extensions of time under the provisions of 37 CFR 1.136(a) permitted. No extensions of time having been obtained and no reply timely received, the above-identified application became abandoned on December 14, 2001. A Notice of Abandonment was mailed on August 27, 2002.

In response, petitioner promptly filed the instant petition, requesting that the response to the non-final Office action, an amendment, be accorded a filing date of December 12, 2001, the date it was deposited in the USPS "Express Mail" service pursuant to the requirements of 37 C.F.R. § 1.10[1]. In support of the petition, petitioner submits *inter alia*:

- the relevant "Express Mail" mailing label, showing a "date-in" of December 12, 2001;
- the originally-deposited papers (transmittal, amendment, and excess claim fee sheet), each with the "Express Mail" mailing label number thereon; and

---

[1] Paragraph (a) of 37 C.F.R. § 1.10 states that:

Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (Emphasis supplied).

- the return Post Car[d], showing receipt of these papers in the Office by the presence of a OIPE date-stamp of December 12, 2001 and the absence of any annotation that any paper itemized on the postcard was missing.

Petitioner states that the label and the papers submitted on petition are true copies of the "Express Mail" label used and of the papers as filed.

Petitioner's arguments and evidence have been considered and it is concluded that petitioner has met the requirements to show that the amendment should be considered timely filed on December 12, 2001.[2] The petition is granted.

Accordingly, the Notice of Abandonment mailed August 27, 2002, is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The application file is being returned to Technology Center 2882 for consideration of the amendment, resubmitted September 23, 2002 (Paper No. 6).

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] Paragraph (e) of § 1.10 provides that:
Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;
(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and if the requested filing date is a date other than the "date-in" on the "Express Mail" or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date that the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the "Express Mail" mailing label, any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EZRA SUTTON, P.A.
PLAZA 9, 900 ROUTE 9
WOODBRIDGE NJ 07095

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,379,666
Issue Date: April 30, 2002
Application No. 09/666,068
Filed: December 11, 2000
Attorney Docket No. TOBINICK3.0-009(CIP)(DIVI

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed March 30, 2010 and supplemented on May 19, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/275,070, filed March 23, 1999, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed December 11, 2000. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

It is noted that a certificate of correction including the desired changes was issued on April 27, 2010. This decision formally grants the outstanding Rule 78(a)(3) petition and ratifies the prior issuance of the certificate of correction.

The Office acknowledges receipt of the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee on March 30, 2010.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/666,068	12/11/2000	1614	710	TOBINICK3.0-009(CIP)(DIVI	17	1

CONFIRMATION NO. 6420

CORRECTED FILING RECEIPT

EZRA SUTTON, P.A.
PLAZA 9, 900 ROUTE 9
WOODBRIDGE, NJ 07095

OC000000041872492

Date Mailed: 05/28/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. 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 submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Edward L. Tobinick, Los Angeles, CA;

Power of Attorney:
Ezra Sutton--25770

Domestic Priority data as claimed by applicant

This application is a DIV of 09/476,643 12/31/1999 PAT 6,177,077
which is a CIP of 09/275,070 03/23/1999 PAT 6,015,557
which is a CIP of 09/256,388 02/24/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/02/2000

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/666,068**

Projected Publication Date: None.

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

TNF INHIBITORS FOR THE TREATMENT OF NEUROLOGICAL, RETINAL AND MUSCULAR DISORDERS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Mailed: APR 28 2003

spg
Paper Number 13

In re application of	:	
Steven Rogers et al.	:	DECISION ON
Serial No. 09/666,113	:	PETITION
Filed: September 20, 2000	:	
For: METHOD OF ORIENTING OF SHOES IN A WASHING	:	
MACHINE AND DEVICES FOR ALIGNING SHOES IN	:	
IN A WASHING MACHINE	:	

This is a response to the REQUEST FOR WITHDRAWAL OF ABANDONED STATUS AND RE-ISSUANCE OF AN OFFICE ACTION, filed November 15, 2002 by facsimile transmission. The requests asks that the abandonment, as set forth in the Notice of Abandonment of November 19, 2002, for failure to timely file a proper reply to the Office letter mailed February 26, 2002 be withdrawn. The requestor asserts that the Office letter mailed February 26, 2002 was not received was not received at the applicant's correspondence address..

DECISION

Since the requester asserts that the applicant did not receive the Office letter mailed February 26, 2002, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

As set forth in MPEP § 711.03(c) II - PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE 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.**"

The evidence presented by the petitioner fails to comply with the requirements set forth in MPEP § 711.03(c) II. The evidence fails to provide a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

A review of the USPTO application file reveals an Office letter was mailed February 26, 2002 but it contained an incorrect mailing address. It is noted that a CHANGE OF CORRESPONDENCE ADDRESS was filed in the instant application on June 13, 2001 but was incorrectly entered into the USPTO's computer database.

Therefore, even though the petitioner has failed to provide a copy of the docket record where the nonreceived Office communication would have been entered, such requirement is waived in view of the fact that the application file record reveals that the Office letter mailed February 26, 2002 was mailed to the incorrect address.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter originally mailed February 26, 2002 to the correct correspondence address.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of
Hideo Ando et al
Application No. 09/666,129
Filed: September 20, 2000
Attorney Docket No. 197393US2S CONT

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 5, 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 November 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2165 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\dec11\666129.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.*

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

W Karl Renner
Fish & Richardson P C
601 Thirteenth Street N W
Washington DC 20005

COPY MAILED

AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of
Joseph G. Barrett, Christopher J,. Wright, and
Victor R. Blake
Application No. 09/666,140
Filed: September 20, 2000
Attorney Docket No. 06975-131001
Title: SECURING AN ACCESSIBLE
COMPUTER SYSTEM

DECISION ON PETITION

This is a decision on the petitions under 37 C.F.R. §1.182 and 37 C.F.R. §148(a), filed August 22, 2001, to change the name of one of the joint inventors and to correct inventorship.

Petitioner has requested that the inventor formerly known as 'Victor R. Parente" be listed as "Victor R. Blake". Petitioner has submitted the petition fee, as well as an affidavit signed by both names.

The petition under 37 C.F.R. §1.182 is **GRANTED**.

The petition under 37 C.F.R. §1.48(a) is **GRANTED**.

The inventors are now listed as:

Joseph G. Barret
Christopher J. Wright
Victor R. Blake
Thomas Stehnach

A corrected filing receipt has been enclosed.

This application is being forwarded to Technology Center 2100 for further processing.

It is noted that the petition makes reference to a new assignment which was filed concurrently with the petition under separate cover. The assignment document has not been located in the file, although the computer records do indicate that the assignment fee has been received. The petitioner may wish to contact the assignment branch at 703-308-9723.

Telephone inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski, for

Beverly M. Flanagan
Supervisory 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
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph G. Barrett et al.	:	
Application No. 09/666,140	:	DECISION ON PETITION
Filed: April 26, 2001	:	TO WITHDRAW
Attorney Docket No. 06975-129001	:	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 14, 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 Babak Akhlaghi on behalf of himself.

Babak Akhlaghi has been withdrawn as attorneys or agents 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/05

Paper No.: —

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6849647 B1 (09/666,152)

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Virginia Tolbert
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE

1626 9/7/05
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 17

MANDEL & ADRIANO
55 S. LAKE AVENUE
SUITE 710
PASADENA, CA 91101

COPY MAILED

JAN 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Linsley et al. :
Application No. 09/666,267 :
Filed: September 21, 2000 :
Attorney Docket No. 30436.11US06/SBA :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 30, 2002, requesting transfer of formal drawings from one of two listed patents.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On April 22, 2002, an Office action was mailed indicating that the drawings filed failed to comply with 37 CFR 1.84.

Petitioner requests that the Office transfer "Formal Figures" from a previous application.

MPEP 608.02(i) states, "Transfer of drawings from a first pending application to another will be made only upon the granting of a petition filed under 37 CFR 1.182 which must set forth a hardship situation requiring such transfer of drawings."

37 C.F.R. 1.182 provides relief for situations that are not specifically provided for in the regulations and the granting of such relief will be decided in accordance with the merits of each situation.

MPEP 608.02(i) only provides for the transfer from pending applications. Drawings will not be transferred from patented files because such transfer would leave the public record incomplete.

Petitioner has failed to establish the existence of a hardship situation which would warrant transfer of the drawings. At times, a hardship would be imposed upon an applicant if drawings are not transferred. For example, if two applications are filed on the same day by the same applicant and each set of drawings is included in the wrong application, it *may* be possible under certain circumstances and upon petition, for the drawings to be switched in order for petitioner to have the original filing dates for the applications Another instance, may be if petitioner files three sets of photographs with an application and does not retain any copies or negatives or such copies or negatives are lost or destroyed. In such a case, one set of photographs may be transferred depending on the exact circumstances. Expense to applicant will only warrant transfer in the most extreme and unusual of circumstances.

Petitioner may make a quality photocopy of the previously submitted formal drawings if a copy of such drawings was retained. In the alternative, petitioner may create new formal drawings. Neither of these methods imposes such a hardship that relief under 37 CFR 1.182 is proper.

The fee for a petition under 37 CFR 1.182 is $130. The $130 fee has been charged to petitioner's deposit account.

Since corrected drawings were not timely filed in compliance with the April 22, 2002 Office action, the application is abandoned.

37 CFR 1.181(f) states, "The mere filing of a petition will not stay any period for reply that may be running." Until petitioner received in hand a decision granting the petition, it was incumbent upon petitioner to supply the reply necessary to maintain pendency of the application.

It should be noted that the application would be abandoned even if the instant petition were granted since such a grant would not have been mailed prior to the last day to respond to the April 22, 2002 Office action.

Petitioner may wish to take steps to revive the application under 37 CFR 1.137.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 20

MANDEL & ADRIANO
55 S. LAKE AVENUE
SUITE 710
PASADENA, CA 91101

COPY MAILED

MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Linsley et al. :
Application No. 09/666,267 : ON PETITION
Filed: September 21, 2000 :
Attorney Docket No. 30436.11US06/SBA :

Corrected Decision

On January 13, 2003, the Office mailed a decision dismissing the petition under 37 CFR 1.182 filed September 30, 2002 (certificate of mailing date of Monday, September 23, 2002). The petition requested transfer of formal drawings.

The decision is vacated to the extent the decision stated the application was abandoned.

Further review of the record indicates the papers filed on September 30, 2002, constitute a bona fide attempt to advance prosecution of the application.[1] Therefore, the examiner will set a new time period to submit drawings in a future Office action unless such drawings are filed prior to such action.

The file will now be forwarded to the Office of Initial Patent Examination for consideration of the request for corrected filing receipt filed on November 13, 2002. The file will then be forwarded to the examiner for further prosecution.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] 37 CFR 134(c) states, "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."

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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JJGJr: 12-03

Paper No: 12

LEOPOLDO PRESSER, ESQ.
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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DEC 22 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of:
Myers, et al.
Filed: 20 September, 2000
Application No. 09/666,369
Docket No.: 13028

This is a decision on the petition filed on 1 December, 2003 (and submitted as "Pursuant to 37 C.F.R. §1.8") and properly considered as a request to withdraw the holding of abandonment properly considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

The record indicates that:

- it appeared that Petitioner failed to reply timely and properly to the final Office action mailed on 10 September, 2002, with response due, absent an extension of time, on or before 10 December, 2003;
- the application was deemed abandoned after midnight 10 December, 2002;
- Notice of Abandonment was mailed on 23 September, 2003;
- accompanying the instant petition over the signature of Mark J. Cohen (Reg. No. 32,211) are *inter alia*: copies of the date-stamped (13 February, 2003) receipt card evidencing that Petitioner's Notice of Appeal (over a 10 February, 2003, certificate of mailing) and fee with a request and fee for a two- (2-) month extension of time was received in the Office;

- the file contains the referenced documents, copies of which Petitioner included with the petition as the reply to the final Office action, and Office records indicate that the fees were charged on 13 February, 2003.

It further is noted that, in lieu of filing an Appeal Brief, on August 13, 2003, Petitioner filed a Request for Continued Examination with fee and submission and a request and fee for a four-(4-) month extension of time.

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.

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[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.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner contends and evidences timely reply.

CONCLUSION

Accordingly, Petitioner satisfied the burdens set forth in Delgar v. Schulyer, and the petition under 37 C.F.R. §1.181 hereby is **granted** and the 23 September, 2003, Notice of Abandonment is **vacated** and fees in connection with this petition are waived.

The instant application is forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

Mr. Brian D. Berger
Ethnetica Inc.
26940 Laguna Hills Drive
Aliso Viejo, California 92656-2622

In re Application of:	)	
Alexander G. Dickinson et al.	)	
Application No. 09/666,377	)	**DECISION ON REQUEST FOR**
Filed: September 20, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: CONTEXT SENSITIVE DYNAMIC	)	**AND FOR CHANGE OF**
AUTHENTICATION IN A	)	**CORRESPONDENCE ADDRESS**
CRYPTOGRAPHIC SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed June 27, 2001.

As a result of the Revocation of Prior Powers of Attorney, filed 27 June 2001, John R. King and attorneys associated with Knobbe, Martens, Olson & Bear, LLP are no longer appointed as attorneys or agents of record. Therefore, the request to withdraw is **DISMISSED AS MOOT**.

Furthermore, because Mr. King is not authorized to act on behalf of the attorneys of record, ***he can not effect a change of address***. Accordingly, the request for a change in correspondence address is **DISMISSED**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: John R. King
Knobbe Martens Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, California 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JAN 1 4 2003

Technology Center 2100

Paper No. 11

Mr. Brian D. Berger
ETHENTICA, INC.
26940 Laguna Hills Drive
Aliso Viejo, CA 92656-2622

In re Application of: Alexander G. Dickinson et al. Application No.: 09/666,377 Filed: September 20, 2000 For: CONTEXT SENSITIVE DYNAMIC AUTHENTICATION IN A CRYPTOGRAPHIC SYSTEM	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed December 31, 2002.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on June 27, 2001 The Power Of Attorney revoked all prior Powers Of Attorney. The Power Of Attorney of June 27, 2001 was accepted. Furthermore, John W. Eldredge is not appointed as an attorney or agent of record, thus he is not authorized to act on behalf of the attorneys of record, nor can he effect a change of address. For the above reasons, the request to withdraw is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: John Eldredge
Stradling, Yocca, Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660

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)
6,572,319	2003-06-03	09666422	2000-09-20	209460.5005

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	/Clark A. Jablon/	Date (YYYY-MM-DD)	2008-10-29
Name	Clark A. Jablon	Registration Number	35039

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. 6572319
Issue Date: June 3,2003
Application No. 09666422
Filed: September 20,2000
Attorney Docket No. 9460-7U1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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AUG 1 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Koji Tezuka et al	:	
Application No. 09/666,485	:	
Filed: September 20, 2000	:	
Attorney Docket No. FUSA 17.777	:	

This is a decision on the petition, filed August 5, 2005, and supplemented on August 10, 2005, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not in compliance with none of the above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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AUG 23 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koji Tezuka et al :
Application No. 09/666,485 :
Filed: September 20, 2000 :
Attorney Docket No. FUSA 17.777 :

This is a decision on the petition, filed August 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2155 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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MAY 3 0 2002
Technology Center 2100

Paper No. 9

Mr. Brian D. Berger
Ethnetica Inc.
26940 Laguna Hills Drive
Aliso Viejo, California 92656-2622

In re Application of: Alexander Dickinson et al.	)	
Application No. 09/666,519	)	**DECISION ON REQUEST FOR**
Filed: September 20, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: SERVER-SIDE IMPLEMENTATION	)	**AND FOR CHANGE OF**
OF A CRYPTOGRAPHIC SYSTEM	)	**CORRESPONDENCE ADDRESS**

This is a decision on the Request To Withdraw from Representation filed June 28, 2001.

As a result of the Revocation of Prior Powers of Attorney, filed 28 June 2001, John R. King and attorneys associated with Knobbe, Martens, Olson & Bear, LLP are no longer appointed as attorneys or agents of record. Therefore, the request to withdraw is **DISMISSED AS MOOT**.

Furthermore, because Mr. King is not authorized to act on behalf of the attorneys of record, ***he can not effect a change of address***. Accordingly, the request for a change in correspondence address is **DISMISSED**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: John R. King
Knobbe Martens Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, California 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 16

Daniel D. Ryan
Ryan Kromholz & Manion
Post Office Box 26618
Milwaukee, WI 53226

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of
John A. Macoviak
Application No. 09/666,617
Filed: September 20, 2000
Attorney Docket No. 9542.18424

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 11, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 12, 2003.

The application file is being forwarded to Technology Center AU 3738 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6314980
Issue Date: November 13,2001
Application No. 09666665
Filed: September 20,2000
Attorney Docket No. B0011/7000

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,314,980	2001-11-13	09/666,665	2000-09-20	B0011/7000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark D. Lorusso/	Date (YYYY-MM-DD)	2010-07-12
Name	Mark D. Lorusso	Registration Number	41955

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. 6

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

COPY MAILED

SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Richard B. Himmelstein :
Application No. 09/666,725 :
Filed: September 20, 2000 :
Attorney Docket No. HIM-PT009.1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 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 February 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3600, Art Unit 3621 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-15-09

TO SPE OF : ART UNIT 1771

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/666,813 Patent No.: 7229680

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should corr. be Approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Relates to formal replacement drawings. Approved

/D. Lawrence Tarazano/ — **SPE**

1794 — **Art Unit**

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GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of Liu et al. :
Application No. 09/666,901 :
Filing Date: September 20, 2000 :
Attorney Docket No. GIC-620 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

A final Office action was mailed April 19, 2005.

The final Office action rejected claims 1, 2, 3, and 13. The final Office action objected to claims 4 to 12.

The final Office action set a shortened statutory period for reply of three (3) months.

A reply was not filed to the Office action. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 20, 2005.

The instant petition was filed August 30, 2006.

The amendment filed with the petition deletes claims 1, 2, and 3. The Remarks section indicates claims 4-12 have been rewritten. However, the amendment does not include any rewritten claims. The amendment fails to cancel or take any other action with respect to pending claim 13. The amendment is not signed.

The petition cannot be granted because it fails to include a proper reply to the final Office action. The amendment simply cancels claims 1, 2, and 3 without taking any further action. A proper amendment (along with any necessary fees) and a request for reconsideration should be filed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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OFFICE OF PETITIONS

In re Application of Liu et al.	:	Decision on Petition
Application No. 09/666,901	:	
Filing Date: September 20, 2000	:	
Attorney Docket No. GIC-620	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed April 19, 2005. The final Office action set a shortened statutory period for reply of three (3) months. A reply was not filed to the Office action. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 20, 2005.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee. Petitioner has submitted a reply to the April 19, 2005 final Office action in the form of an amendment. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Since petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b), the petition is granted and the application is revived.

Technology Center Art Unit 2616 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#13

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MAILED

APR 0 2004

C[illegible]tor

Hewlett Packard Company
Intellectual Property Administration
PO Box 272400
Fort Collins CO 80528-9599

In re application of:
Anna Maria Zara et al.
Application No. 09/666,910
Filed: September 21, 2000
For: INTELLIGENTLY CLASSIFYING AND HANDLING USER REQUESTS IN A DATA SERVICE SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 9, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition A), the attorney signing the request does not have power of attorney in this application.

The original declaration granted Power of Attorney to the attorneys associated with Customer No. 22879. The petitioner, Leah Sherry (Reg. No. 43,918), is not listed as one of the attorneys associated with this number.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/mjz: 4/5/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Uve Hansmann	: DECISION ON REQUEST FOR
Patent Number	: 7650647	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/667,010	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1219** 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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United States Patent and Trademark Office
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Paper No. 14

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Bogin et al.	:	
Application No. 09/667,050	:	ON PETITION
Filed: September 21, 2000	:	
Attorney Docket No. 42390.P9415	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 17, 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 May 5, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 6, 2003. A Notice of Abandonment was mailed on March 10, 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 2100 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

#7

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AUG 24 2004
TECHNOLOGY CENTER 2100

Paper No. 7

STMICROELECTRONICS, INC.
Mail Station 2346
1310 Electronics Drive
Carrollton, TX 75006

In re Application of:
William E. Ballachino
Application No. 09/667,164
Filed: September 21, 2000
For: M-BIT RACE DELAY ADDER AND METHOD OF OPERATION

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed 22 April 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed 07 July 2003 (paper no. 2). A Notice of Abandonment was mailed 11 February 2004 (paper no. 5).

In support of the petition, Petitioner provides a copy of (1) a postcard receipt (without a UPSTO date stamp); (2) an amendment; (3) a transmittal form with a certificate of mailing signed by William A. Munck and Kathy Hamilton (as the actual mailer), both signatures dated 07 October 2003, and indicating transmittal of an amendment and return postcard, and (4) an account detail report for account Stmi01-00050.

Postcard Receipt

M.P.E.P. §503 states:

> A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has provided a postcard receipt without a USPTO date stamp. Since the copy of the postcard receipt does not include a USPTO date stamp, then the copy of the postcard does not serve to establish *prima facie* evidence of receipt of the USPTO of all the items listed thereon.

Certificate of Mailing

37 CFR 1.8(b) sets forth in relevant part that "[in] the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but

not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided without prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

...

(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 units report confirming transmission may be used to support this statement."

The present petition does not include a statement from the party who mailed the correspondence (i.e. the individual who signed the certificate of mailing of the correspondence in question as the mailer) which attests on a personal knowledge basis to the previous timely mailing. Accordingly, the Petition is **DISMISSED**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

MAIL

JAN 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

DANIEL VENGLARIK
STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TEXAS 75006

In re Application of: Ballachino Application No. 09/667,164 Atty Docket No.: 00-C-050 Filed: September 21, 2000 For: M-BIT RACE DELAY ADDER AND METHOD OF OPERATION	DECISION ON REQUEST TO WITHDRAWAL HOLDING OF ABANDONMENT

This is a decision on the renewed petition to withdraw the holding of abandonment, filed September 21, 2004, under 37 C.F.R. §1.181 and M.P.E.P. §711.03 (c): Petitions Relating to Abandonment, to withdraw holding of abandonment. The original petition was dismissed on August 24, 2004 because it lacked a personal knowledge statement to the previous timely mailing of the correspondence.

The Request for Reconsideration includes, among other items, a declaration from Ms. Kathy A. Hamilton. Ms. Hamilton's name was listed as "Mailer" on the certificate of mailing dated October 7, 2003. The evidence provided in the original petition and this renewed request has established that a response was timely filed on October 7, 2003. The Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Technology Center support staff with instructions to withdraw the holding of abandonment and for processing of the amendment. After processing, the application will then be forwarded to the Examiner for appropriate action.

Josie Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3567

HMJ: 12/29/04

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/20/2010

Applicant	: William E. Ballachino	: DECISION ON REQUEST FOR
Patent Number	: 7571204	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/667,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1591** 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 0 5 2004

Technology Center 2100

Schulte Roth & Zabel, LLP
919 Third Avenue
New York, NY 10022

In re Application of:
Korbin S. VAN DYKE, et al.
Application No. 09/667,226
Filed: September 21, 2000
For: EXCEPTION MECHANISM FOR A COMPUTER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed August 29, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on February 26, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Willkie Farr & Gallagher LLP as the attorney(s) of record of the instant application. The Power of Attorney of February 26, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Willkie, Farr & Gallagher LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

cc: Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

10/17/03

Nixon and Vanderhye P C
1100 North Glebe Road 8th Floor
Arlington VA 22201-4714

Dear Applicant:

The Box PGPub replacement drawings for application number 09/667,319 received on 9/10/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

Wesley B. Ames, Esq.
FOLEY & LARDNER
402 West Broadway
23rd Floor
San Diego, CA 92101-3542

COPY MAILED

JAN 28 2002

OFFICE OF PETITIONS

In re Application of	:	
Intaglietta et al.	:	
Application No. 09/667,335	:	DECISION ON PETITION
Filed: September 21, 2000	:	
Attorney Docket No.	:	
246/102UTL1	:	

This is a decision on the Petition, filed January 3, 2002, under 37 CFR 1.137(b), 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 Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") mailed November 15, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice, and required the basic filing fee, additional claims fees, and an executed Oath/Declaration. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above identified application became abandoned on January 16, 2001. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has submitted the basic filing fee, additional claims fees, and an executed Oath/Declaration. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

COPY MAILED
MAR 16 2006
OFFICE OF PETITIONS

In re Application of :
Christopher Ling :
Application No. 09/667,366 : ON PETITION
Filed: September 22, 2000 :
Title: METHOD FOR PREVENTING :
PARASITIC USAGE OF WEB PAGE
EMBEDDED FILES

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 12, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned June 5, 2004 for failure to timely reply to the non-final Office Action mailed on March 4, 2004. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed September 28, 2005.

Petitioner asserts that a reply to the non-final Office Action was timely submitted on June 4, 2004. Petitioner insist that he informed the examiner that a response was previously submitted. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission dated June 4, 2004 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of the sending unit's report as well as the USPTO Auto-Reply which shows transmission was completed on June 4, 2004.

The response submitted June 4, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

There is no indication that Petitioner herein was ever empowered to prosecute the

instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Ronald A. D'Alessandro
Hoffman Warrick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, NY 12207

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 22 2005

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE WI 53202-5308

In re Application of	:	
A. Maxwell Eliscu	:	**DECISION ON PETITION**
Application No. 09/667,391	:	**TO WITHDRAW THE**
Filed: September 20, 2000	:	**HOLDING OF ABANDONMENT**
For: SYSTEM FOR AND METHOD OF	:	
HANDLING REFERRALS FROM	:	
REFERRING PARTIES	:	

This is a decision on applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 07, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed January 13, 2004, which set a three-month shortened statutory period. A Notice of Abandonment was mailed on September 30, 2004 stating that no reply was received.

Petitioner contends that a response was filed on April 12, 2004 by mail. In support thereof, petitioner submits, a copy of a returned postcard receipt stamped by the Patent and Trademark Office on April 14, 2004. The postcard submitted is insufficient evidence of a timely reply as the April 14, 2004 stamp date is more than three months from the January 13, 2004 date of mailing of the Office action.

The copy of the response bears a Certificate of Mailing signed by Paul S. Hunter and dated April 12, 2004.

In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing 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

Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance Paul S. Hunter.

It is noted that if Applicant is unable to satisfy the requirements for Certificate of Mailing outlined above that the copy of the response bearing the postcard receipt stamped April 14, 2004 included authorization to charge deposit account 50-2350 for any necessary extensions of time required. Applicant's response would be considered timely filed relying upon the April 14, 2004 date with a one-month extension of time.

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
(571) 272-6611

SNM/rjc 08/02/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 19 2005

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE WI 53202-5308

In re Application of	:	
A. Maxwell Eliscu	:	**DECISION ON PETITION**
Application No. 09/667,391	:	**TO WITHDRAW THE**
Filed: September 20, 2000	:	**HOLDING OF ABANDONMENT**
For: SYSTEM FOR AND METHOD OF	:	
HANDLING REFERRALS FROM	:	
REFERRING PARTIES	:	

This is a decision on applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on September 01, 2005.

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 April 12, 2004 .
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 _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/rjc: 09/17/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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P.O. Box 1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application
A. Maxwell Eliscu et al.
Application No. 09/667,391
Filed: September 20, 2000
Attorney Docket No. **046983-0103**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed January 15, 2010. Applicant requests that the initial determination of Patent Term Adjustment of 1436 days under 35 U.S.C. 154(b) be corrected to 2136 days, in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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 correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, 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.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PALM 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 seven hundred ninety-nine **(1799)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 22, 2009, 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 one thousand four hundred thirty-six days. Applicants submit the instant renewed application for patent term adjustment requesting that the initial determination of Patent Term Adjustment of 2136 days under 35 U.S.C. 154(b) be further adjusted under 37 CFR 1.702. [1]

The Office initially determined a patent term adjustment of one thousand four hundred thirty-six (1436) days based on an adjustment for PTO delay of one thousand seven hundred sixty-nine (1769) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and (a)(2) reduced by applicants' delay of three hundred thirty-three (333) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). Applicant contends however that the patent issuing from this application is entitled to more days of patent term adjustment based on Office delay.

Applicants submit evidence to show that the holding of abandonment for failure to timely respond to the non-Final Office Action was withdrawn based on their showing that a response had been filed on April 14, 2004 one day past the three month period within which the response was due. In support of a showing that the response was received April 14, 2004, applicants submitted a copy of their date-stamped postcard and a certificate of mail.

---

[1] PALM records indicate that the Issue Fee was received in the Office on January 15, 2010.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the non-Final Office Action mailed January 13, 2004 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed September 30, 2004. In response, on October 12, 2004 and on September 1, 2005 applicants filed a grantable petition to withdraw the holding of abandonment. It is specifically noted that the initial petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed December 19, 2005, the petition was granted on the basis that applicants had shown that a proper response was filed on April 14, 2004 with a USPTO date stamped post card receipt.

Thus, one (1) day of applicant delay should be deducted pursuant to 37 CFR 1.704(b) and not one hundred eighty-two (182 days. Further, four months from the filing of the response, August 14, 2004 to the mailing of the Final Office Action on April 6, 2006, six hundred (600) days should be accorded as PTO delay pursuant to 1.703(a)(2).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is one thousand seven hundred ninety-nine (1799) (784 plus 600 plus 567 attributable to examination delay minus 1 plus 32 plus 26 plus 7 plus 86 applicant delay) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) with the instant renewed application. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the 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).

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen.

PALM INTRANET

Day : Friday
Date: 6/4/2010
Time: 13:20:47

PTA Calculations for Application: 09/667391			
Application Filing Date:	09/20/2000	PTO Delay (PTO):	1769
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	333
Post-Issue Petitions:	0	Total PTA (days):	1799
PTO Delay Adjustment:	363		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
108	06/04/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
107	06/04/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	367		
91	10/22/2009	MAIL NOTICE OF ALLOWANCE			
90	10/21/2009	ISSUE REVISION COMPLETED			
89	10/21/2009	DOCUMENT VERIFICATION			
88	10/21/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
87	10/21/2009	EXAMINER'S AMENDMENT COMMUNICATION			
86	10/21/2009	NOTICE OF ALLOWABILITY			
85	10/06/2009	CASE DOCKETED TO EXAMINER IN GAU			
84	09/23/2009	MAIL BPAI DECISION ON APPEAL - REVERSED	567		64
83	09/23/2009	BPAI DECISION - EXAMINER REVERSED			
81	02/04/2009	DOCKETING NOTICE MAILED TO APPELLANT			
80	02/03/2009	ASSIGNMENT OF APPEAL NUMBER			
78	12/12/2008	APPEAL AWAITING BPAI DOCKETING			
77	10/06/2008	APPEAL READY FOR BPAI REVIEW			
76	05/30/2008	EXAM. ANS. REVIEW COMPLETE			
75	05/22/2008	MAIL EXAMINER'S ANSWER			
74	05/22/2008	EXAMINER'S ANSWER TO APPEAL BRIEF			
73	05/06/2008	APPEAL BRIEF REVIEW COMPLETE			
72	05/06/2008	DATE FORWARDED TO EXAMINER			
71	05/06/2008	APPEAL BRIEF FILED			
70	04/02/2008	MAIL APPEALS CONF. PROCEED TO BPAI			
69	03/31/2008	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
65	03/06/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			

64	03/06/2008	NOTICE OF APPEAL FILED		86	62
63	03/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	09/11/2007	MAIL FINAL REJECTION (PTOL - 326)			
61	09/05/2007	FINAL REJECTION			
60	07/17/2007	DATE FORWARDED TO EXAMINER			
59	07/12/2007	RESPONSE AFTER NON-FINAL ACTION		7	57
58	07/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	04/05/2007	MAIL NON-FINAL REJECTION			
56	03/31/2007	NON-FINAL REJECTION			
55	02/22/2007	DATE FORWARDED TO EXAMINER			
54	02/13/2007	RESPONSE AFTER NON-FINAL ACTION		26	52
53	02/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	10/18/2006	MAIL NON-FINAL REJECTION			
51	10/12/2006	NON-FINAL REJECTION			
50	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
49	08/11/2006	DATE FORWARDED TO EXAMINER			
48	08/07/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	08/11/2006	DATE FORWARDED TO EXAMINER			
46	08/07/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	38
45	08/11/2006	DISPOSAL FOR A RCE / CPA / R129			
44	08/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	08/07/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	06/21/2006	MAIL ADVISORY ACTION (PTOL - 303)			
41	06/17/2006	ADVISORY ACTION (PTOL-303)			
40	06/14/2006	DATE FORWARDED TO EXAMINER			
39	06/09/2006	AMENDMENT AFTER FINAL REJECTION			
38	04/06/2006	MAIL FINAL REJECTION (PTOL - 326)	418		35
37	04/03/2006	FINAL REJECTION			
36	04/03/2006	DATE FORWARDED TO EXAMINER			
35	10/12/2004	RESPONSE AFTER NON-FINAL ACTION		182	13
34	12/19/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
33	04/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	12/19/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			

31	04/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
30	03/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	01/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	12/19/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
26	09/01/2005	PETITION ENTERED			
25	08/22/2005	MAIL-PETITION DECISION - DISMISSED			
24	10/07/2004	PETITION ENTERED			
22	04/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	04/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	10/12/2004	WORKFLOW INCOMING PETITION IFW			
16	09/30/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
15	09/28/2004	ABAND. FOR FAILURE TO RESPOND TO O. A.			
14	04/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	01/13/2004	MAIL NON-FINAL REJECTION	784		-1
12	01/06/2004	NON-FINAL REJECTION			
11	02/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	02/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	03/12/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	12/19/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/13/2000	CORRESPONDENCE ADDRESS CHANGE			
4	11/22/2000	CORRESPONDENCE ADDRESS CHANGE			
3	11/01/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/13/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/20/2000	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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Beveridge DeGrandi Weilacher & Young LLP
Suite 800
1850 M Street NW
Washington, DC 20036

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Yoshiyuki Sogawa.	:	
Application No. 09/667,424	:	ON PETITION
Filed: September 21, 2000	:	
Attorney Docket No. 32405W043	:	

This is in response to the petition under 37 CFR 1.182, filed October 4, 1004, to withdraw a terminal disclaimer filed September 7, 2004.

The petition is granted.

Examiner Selby has determined that the terminal disclaimer filed September 7, 2004, can be withdrawn as the terminal was not necessary. The terminal disclaimer is withdrawn, accordingly.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 12, 2005

TO SPE OF : ART UNIT ~~2124~~ 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6,925,638

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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 printed patent did not include the amendments to the claims as indicated by the Amendment of 10/15/2004. It appears the printed patent instead used an old set of claims, and not the set that put the application in condition for allowance. Kakali Chaki.

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2193
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No. 9

Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

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NOV 20 2003

OFFICE OF PETITIONS

In re Application of :
Stephen Gold :
Application No. 09/667,516 :
Filed: September 22, 2000 :
Attorney Docket No. 30003758 US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003, to revive the above-identified application.

The petition is Dismissed as moot.

Accordingly, the $1330 petition fee will be credited to petitioner's deposit account.

The application file will be forwarded to Technology Center AU 2124 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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SUITE 800
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re reissue Application of	:	
Oshima, et al.	:	
Reissue Application No. 09/667,525	:	DECISION ON PETITION
Filed: September 21, 2000	:	
Attorney Docket No. 8400	:	

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO ACCEPT SUBSTITUTE SPECIFICATION IN A REISSUE APPLICATION", filed June 23, 2004.

The petition under 37 CFR 1.183 is **GRANTED**.

Applicants have filed the instant petition, requesting that "the PTO accept entry of the substitute specification filed August 1, 2003 in connection with the present application."

37 CFR 1.125(d) states that a "substitute specification under this section is not permitted in a reissue application or in a reexamination proceeding."

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

A review of the application file reveals that the Examiner, in paragraph 2 of the February 4, 2004 Office action, has already entered the August 1, 2003 substitute specification.

Accordingly, in light of the Examiner's decision to enter the substitute specification (due to the length of the specification and the number of amendments), it is proper to grant the instant petition under 37 CFR 1.183.

The application file is being forwarded to Group Art Unit 2634 for consideration of the amendment filed June 23, 2004.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Patricia Faison-Ball
for

Charles Pearson
Director
Office of Petitions

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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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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application	:	
Burger et al.	:	
Application No. 09/667,556	:	DECISION ON APPLICATION
Filed: September 22, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 037067-0114	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed May 17, 2004. 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 hundred eleven (111) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent application is being **HELD IN ABEYANCE** until issuance of the patent.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicants' written request for reconsideration.

On February 17, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 17, 2004, applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred eleven (111) days.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on the following. The above-identified application was filed on September 22, 2000. The PTO timely mailed a first office action within 14 months, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), on April 18, 2001. Applicants did not respond until August 20, 2001. As this response was not within the three month time period pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), applicant delay of thirty-three (33) days was assessed. Next, applicants filed a supplemental paper, an IDS, on October 26, 2001, incurring additional applicant delay of sixty-seven (67) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8).

Next, the PTO mailed timely mailed an Office action within 4 months, pursuant to U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), on November 6, 2001. Applicants did not reply until May 6, 2002. Although this reply was made timely for the purpose of avoiding abandonment by obtaining a three month extension of time, the reply was not timely for the purpose of PTA.[2] Accordingly, applicant delay of eighty-nine (89) days was properly assessed.

The PTO then timely mailed an Office action on July 16, 2002, to which applicants timely replied on August 14, 2002. However, applicants incurred additional delay by filing an IDS on September 18, 2002 and March 28, 2003. The delay begins "on the day after the date the initial reply was filed and ending on the

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[1] PALM records indicate that applicant paid the issue fee together with the application for patent term adjustment on May 17, 2004.

[2] See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 1239 O.G. 14 (Oct. 3, 2000).

date that the supplemental reply or other such paper was filed."[3] Accordingly, applicant delay of two hundred twenty-six days (226) should have been assessed for the filing of the IDS on March 28, 2003.

Lastly, the PTO should have been assessed delay of two hundred ninety-two (292) days for the mailing of a final Office action on October 2, 2003, in response to applicants' amendment filed August 14, 2002.

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** (292 days of PTO delay, reduced by 415 (33 + 67 + 89 + 226) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

[3] 37 C.F.R. §1.704(c)(8).

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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. 09/667,611	)	
Filed: September 22, 2000	)	**DECISION ON REQUEST FOR**
For: CAPTURE HIGHLY REFINED	)	**WITHDRAWAL AS ATTORNEY**
CLAIM EVALUATION	)	
INFORMATION ACROSS	)	
MULTIPLE WEB INTERFACES	)	

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

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WASHINGTON, D.C. 20231
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Paper No. 4

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. 09/667,612	)	
Filed: September 22, 2000	)	**DECISION ON REQUEST FOR**
For: PROVIDING EVALUATION AND	)	**WITHDRAWAL AS ATTORNEY**
PROCESSING OF LINE ITEMS	)	

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.

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In re Application of: G. Victor Guyan et al.	)	
Application No. 09/667,637	)	
Filed: September 22, 2000	)	**DECISION ON REQUEST FOR**
For: LINE ITEMS DATA PROCESSING	)	**WITHDRAWAL AS ATTORNEY**

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.

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cc: Joel Benson
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WASHINGTON DC 60610

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OFFICE OF PETITIONS

In re Application of	:	
Guayan et al.	:	DECISION ON REQUEST
Application No. 09/667,637	:	FOR REVIEW OF
Filed: September 22, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 10022/217	:	

This letter is in response to the "REQUEST EOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 28, 2008, pursuant to applicant's duty of good faith and candor. Applicants disclose that the initial determination of patent term adjustment of five hundred fifteen (515) days may extend the patent by too many days.

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 at the time of the mailing of the Notice of Allowance is four hundred sixty-eight (468) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 29, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is five hundred fifteen (515) days.

The Office initially determined a patent term adjustment of five hundred fifteen (515) days based on an adjustment for PTO delay of six hundred sixty (660) days, pursuant to 35 USC 154(b) and

37 CFR 1.703(a)(1), reduced by four (4) days, thirty-three (33), and one hundred eight (108) days of applicant delay pursuant to 37 CFR 1.704(b).

Applicants assert that the PTA should be reduced by 61 days of additional applicant delay.

A review of the record reveals that Applicants should have been assessed an additional delay of sixty one (61) days. On January 14, 2004, a final rejection was mailed. Applicants in response filed a Request for Continued Examination (RCE) on June 14, 2004.

37 CFR1.704(b) states, in pertinent part that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Therefore, Applicants should have been assessed delay for the period from April 14, 2004, (three (3) months from the date that the final rejection was mailed on January 14, 2004), to June 14, 2004 (the date the RCE was filed), or 61 days.

It is further noted that 37 CFR 1.703(a)(4) states that the period of adjustment for Office delay includes the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On January 4, 2007, an appeal brief was filed. On May 18, 2007, a non-final Office action was mailed in response to the appeal brief. As the non-final Office action mailed on May 18, 2007, was mailed four (4) months and fourteen (14) days after the filing of the appeal brief on January 4, 2007, applicant is entitled to fourteen (14) days of patent term adjustment for Office delay in responding to the appeal brief.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is four hundred sixty-eight (468) days (674 (660+14) days of PTO delay, reduced by 206 (4+61+33+108) days of Applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management 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).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday

PALM INTRANET

Date: 7/3/2008
Time: 11:35:54

PTA Calculations for Application: 09/667637			
Application Filing Date:	09/22/2000	PTO Delay (PTO):	660
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	145
Post-Issue Petitions:	0	Total PTA (days):	468
PTO Delay Adjustment:	-47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	14		
92	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
80	11/29/2007	MAIL NOTICE OF ALLOWANCE			
79	11/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
78	10/31/2007	ISSUE REVISION COMPLETED			
77	10/31/2007	DOCUMENT VERIFICATION			
76	10/29/2007	NOTICE OF ALLOWABILITY			
74	07/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	08/23/2007	DATE FORWARDED TO EXAMINER			
72	08/14/2007	RESPONSE AFTER NON-FINAL ACTION			
71	07/03/2007	REFERENCE CAPTURE ON IDS			
70	07/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	07/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	05/18/2007	MAIL NON-FINAL REJECTION			
67	05/14/2007	NON-FINAL REJECTION			
66	02/28/2007	APPEAL BRIEF REVIEW COMPLETE			
65	02/28/2007	DATE FORWARDED TO EXAMINER			
64	01/04/2007	APPEAL BRIEF FILED			
63	07/31/2006	NOTICE OF APPEAL FILED			
62	02/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
61	10/06/2006	MAIL NON-FINAL REJECTION			
60	09/29/2006	NON-FINAL REJECTION			
59	04/27/2006	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
58	09/08/2006	DATE FORWARDED TO EXAMINER			
57	09/08/2006	MAIL APPEALS CONF. REOPEN PROSEC.			
56	09/05/2006	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
55	07/31/2006	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
54	07/31/2006	NOTICE OF APPEAL FILED			
53	05/31/2006	MAIL FINAL REJECTION (PTOL - 326)	22		48
52	04/27/2006	REFERENCE CAPTURE ON IDS			
51.7	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		108	48
51	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	04/03/2006	FINAL REJECTION			
49	01/20/2006	DATE FORWARDED TO EXAMINER			
48	01/09/2006	RESPONSE AFTER NON-FINAL ACTION			
47	10/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
46	10/11/2005	MAIL NON-FINAL REJECTION			
45	10/03/2005	NON-FINAL REJECTION			
44	07/13/2005	DATE FORWARDED TO EXAMINER			
43	07/07/2005	APPEAL BRIEF FILED			
42	07/07/2005	NOTICE OF APPEAL FILED			
41	04/07/2005	MAIL FINAL REJECTION (PTOL - 326)	30		38
40	02/22/2005	FINAL REJECTION			
39	12/08/2004	DATE FORWARDED TO EXAMINER			
38	11/08/2004	RESPONSE AFTER NON-FINAL ACTION		33	35
37	11/08/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	11/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
35	07/06/2004	MAIL NON-FINAL REJECTION			
34	06/28/2004	NON-FINAL REJECTION			
33	06/24/2004	DATE FORWARDED TO EXAMINER			
32	06/14/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
31	06/24/2004	DATE FORWARDED TO EXAMINER			
30	06/14/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			

29	06/24/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
28	06/14/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	06/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	06/14/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
22	01/14/2004	MAIL FINAL REJECTION (PTOL - 326)			
21	01/12/2004	FINAL REJECTION			
20.7	10/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	18
20	10/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/31/2003	DATE FORWARDED TO EXAMINER			
18	10/27/2003	RESPONSE AFTER NON-FINAL ACTION		4	17
17	07/23/2003	MAIL NON-FINAL REJECTION	608		-1
16	07/21/2003	NON-FINAL REJECTION			
15	07/15/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	02/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	03/08/2002	CORRESPONDENCE ADDRESS CHANGE			
10	03/08/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
9	01/23/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
8	01/22/2002	CORRESPONDENCE ADDRESS CHANGE			
7	01/22/2002	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
6	12/28/2001	PETITION ENTERED			
5	06/19/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	11/14/2000	APPLICATION DISPATCHED FROM OIPE			
3	11/14/2000	CORRESPONDENCE ADDRESS CHANGE			
2	10/18/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/22/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of	:	
Zili Li et al	:	
Application No. 09/667,641	:	DECISION GRANTING PETITION
Filed: September 23, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CM013181	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 reply to the nonfinal Office action of September 3, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center AU 2871.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817

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JAN 10 2008

TECHNOLOGY CENTER 2100

In re Application of:
Yoshiki Kawaoka et al.
Application No. 09/667,701
Filed: September 22, 2000
For: Image Server and Method of Controlling Same

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on August 23, 2007, requesting that the shortened statutory period for reply set forth in the Office communication mailed on July 26, 2007, be reset to run from the date on which a corrected complete office action was actually mailed.

The petition is **Dismissed as Moot** as a new office action has been mailed (January 9, 2008)..

Petitioner points out that an office action contains some defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the office will restart the previously set period for reply to run from the date of the error is corrected, if requested by applicant. See MPEP 710.06. The defect pointed out by petitioner is that claims 4-6 and 16-17 are not recited in any statement of the grounds of rejection.

The office regrets the delay in deciding this petition but it only came to my attention this week. The below text is included as a courtesy in case the above fact pattern occurs again.

A review of the July 26 office action indicates that petitioner is correct that claims 4-6 and 16-17 are not recited in any statement of the grounds of rejection however all of these claims are recited in the body of the second 102 rejection and the discussion clearly discusses the claim language of these claims and not claims 1, 10-12, 14, 19 and 20. Cleary the statement of the grounds of rejection is a typo and that an applicant could reasonably reply to the office action in light of this typo. MPEP 710.06 states that when an office action contains an error that effects applicant's ability to reply to the office action .... As this typo didn't effect applicant's ability to reply this fact pattern would not be a grantable fact pattern.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone is (571) 272-3612.

Tod Swann, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

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Fish & Richardson PC
225 Franklin Street
Boston, MA 02110

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APR 0 4 2005

Technology Center 2100

In re Application of: Hansen	)	
Application No. 09/667,737	)	*SUA SPONTE*
Attorney Docket No. 11333-011001	)	WITHDRAWAL OF HOLDING OF
Filed: September 22, 2000	)	ABANDONMENT
For: RETRIEVING DATA FROM A	)	
SERVER	)	

The information and request for withdrawal of the holding of abandonment, filed July 15, 2004 (duplicate copy filed July 26, 2004) is acknowledged.

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on June 30, 2004. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Non-Final Office communication (mailed on February 23, 2004). The Notice of Abandonment was mailed prior to the end of the six-month statutory period for response. A timely filed amendment with a two-month extension of time (37 CFR § 1.136(a)) was filed on July 26, 2004 bearing a certificate of mailing under 37 CFR § 1.8(a) on July 23, 2004. Accordingly, the amendment/response was timely filed.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner 3/31/05
Technology Center 2100
Computer Architecture, Software, and Information Security

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,185,014 :
Issue Date: February 27, 2007 :
Application No. 09/667,737 :
Filed: September 22, 2000 :
Attorney Docket No. 11333-011001 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of: ENDO, et al.
Application No. 09/667,769
Filed: September 22, 2000
Attorney Docket No.: 04329.2431
For: METHOD FOR DETERMINING A SERVER COMPUTER WHICH CARRIED OUT A PROCESS MOST RECENTLY, AND HIGH AVAILABILITY COMPUTER SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed September 3, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application under 37 CFR §1.181. This application was held abandoned for failure to file a timely response to the Office Action mailed on December 23, 2003. A Notice of Abandonment was mailed July 26, 2004.

The petition is **DISMISSED**

In support of the petition, Petitioner provides a statement that Applicants' representatives did not receive the above-mentioned Office Action in the mail, as well as a search that was made on the file jacket of the above-identified application. Petitioner also indicated that a phone inquiry was made by the Examiner on July 21, 2004 to confirm Applicants' intention to abandon. Applicants' representative checked the status of the file, and according to the law firm's docketing database there was no indication of a receipt of the Office Action mailed on December 23, 2003 from USPTO. However, since the application had been held abandoned a month earlier (to the phone inquiry date), Applicants were unable to prepare a response prior to abandonment.

Petitioner further encloses the following documents on which searches were made: a print-out of its mail room received records for the periods from December 23, 2003 through January 23, 2004, and a copy of the master docket records excerpt for March 23, 2004.

According to the MPEP §711.03(c)(I)(A), the showing required to establish non-receipt of an Office Action includes the following:

(a) a statement from practitioner that the Office action was not received;
(b) a statement from practitioner that the file jacket and docket records were searched;
(c) a copy of the docket record at the address of record; and
(d) a reference to the docket record in the practitioner's statement.

The petition fails to fully comply with requirement (c) set forth above. The evidence submitted has not overcome the presumption of receipt. In accordance with requirement (c) above, the docket report has to be from the address of record at the time the action was mailed and show all actions due by the entire firm at and around the due date for response, not counting any possible extensions of time.

There is no clear indication in the Petition that the submitted docket report is actually from the address of record at the time the action was mailed (Finnegan, Henderson, FaraBow, Garrett & Dunner LLP, **1300 I Street, NW, WASHINGTON DC 20005**). The practitioner is therefore respectfully requested to clarify which address the docket report is from. Furthermore, while it is required that Petitioner provides a record of actions due by the entire firm **at <u>and</u> around** the due date, Petitioner only provided actions that were due on the sole due date.

Accordingly, the petition is **<u>DISMISSED</u>**.

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.

5/3/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 05/03/05

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William Brogan
Finnegan, Henderson, Farabow, Garrett & Dunner LLP
901 New York Avenue, NW
Washington, DC 20001-4413

MAILED

FEB 23 2006

TECHNOLOGY CENTER 2100

In re Application of: Endo, et al.	)	
Application No. 09/667,769	)	**DECISION ON PETITION TO**
Attorney Docket No. 04329.2431	)	**WITHDRAW HOLDING OF**
Filed: September 22, 2000	)	**ABANDONMENT UNDER 37 CFR**
For: METHOD FOR DETERMINING A	)	**§1.181**
SERVER COMPUTER WHICH CARRIED	)	
OUT A PROCESS MOST RECENTLY,	)	
AND HIGH AVAIL. COMPUTER SYSTEM		

This is a decision on the renewed petition filed June 17, 2005 under 37 CFR §1.181, requesting the Withdrawal of the Holding of Abandonment of the above-identified application. This application was held abandoned for failure to timely respond to the Non-Final Office action mailed December 23, 2003. A Notice of Abandonment was mailed on July 26, 2004. A decision dismissing the original petition to Withdraw the Holding of Abandonment, filed on September 3, 2004, was mailed on May 4, 2005.

The petition is **GRANTED.**

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Office action was not received and that a search of the file jacket and document records has been performed. Petitioner also provides a copy of the docket record where the non-received action would have been entered. Additionally, the petition furnishes a copy of the mail log at the address where the action would have been received, and the referenced address reflects the Patent Office's address of record for the instant Application at the time the action was mailed.

Petitioner has established non-receipt of the Office action according to the requirements set forth supra. 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 **REDATE/REMAIL** the Office action originally mailed December 23, 2003.

Any questions regarding this decision may be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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SEP 2 9 2004

OFFICE OF PETITIONS

In re Application of
Mitsuaki Komino, et al.
Application No. 09/667,770
Filed: September 22, 2000
Attorney Docket No. PM 272798

ON PETITION

This is a decision on the petition, filed September 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1763 for further processing of the request for continued examination under 37 CFR 1.114 filed September 23, 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).

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FINNEGAN HENDERSON FARABOW GARRETT &
DUNNER LLP
901 NEW YORK AVE NW
WASHINGTON DC 20001-4413

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JUN 23 2005

OFFICE OF PETITIONS

In re	:
Takashi Yoshikawa	: DECISION REGARDING
Application No. 09/667,776	: PATENT TERM ADJUSTMENT
Filed: September 22, 2000	: AND
Patent No. 6,871,343	: NOTICE OF INTENT TO ISSUE
Issued: March 22, 2005	: CERTIFICATE OF CORRECTION

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed April 20, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred eighty-nine (589) days**.

Applicant has two (2) months to respond to this decision.

On March 22, 2005, the above-identified application matured into U.S. Patent No. 6,871,343. The patent issued with a Patent Term Adjustment of seven hundred sixty-nine (769) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA.

A review of the file reveals that the Office was erroneously accorded PTO delay of eight-eight (88) days for the mailing of a Notice of Allowance on February 23, 2005, pursuant to 37 C.F.R. § 1.703(a)(3). However, a review of the application file indicates that a Notice of Allowance was timely mailed on November 19, 2004, not February 23, 2005.

In addition, a review of the application file reveals that applicant delay of ninety-two (92) days should have been assessed for the late response to the final Office action mailed May 17, 2004. It is true that applicant filed an amendment on July 27, 2004. However, the amendment failed to place the condition for allowance. Applicant did not file a proper response until he filed a Notice of Appeal on November 17, 2004. Accordingly, pursuant to 37 C.F.R. §1.704(b), applicant should have been assessed delay of ninety-two (92) days.

In view thereof, the correct determination of patent term adjustment is **five hundred eighty-nine (589) days** (713 days of PTO delay, reduced by 124 (92+32) days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate.

Give the basis for granting this decision, no fee is required. The $200 fee submitted on petition will be refunded under separate cover. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Bránch 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 letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction

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Paper No. 5

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MAY 25 2001

OFFICE OF PETITIONS

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

In re Application of
Brogne, et al.
Application No. 09/667,779
Filed: September 22, 2000
Attorney Docket No.: Q60742
For: METHOD OF MANIPULATING AN ALREADY SENT E-MAIL AND A CORRESPONDING SERVER

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, JEAN-PIERRE KELLES, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Petra Schützinger sufficiently establishes that the non-signing inventor received the application papers but refused to sign the declaration. The declaration is accompanied by a mailing receipt indicating receipt of the application by the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/28/2010

Applicant	: Nicolas Brogne	: DECISION ON REQUEST FOR
Patent Number	: 7624146	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/667,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2000	: ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1793** 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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NIXON PEABODY LLP
401 9TH STREET N.W.
SUITE 900
WASHINGTON, DC 20004-2128

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Paula S. Fried et al :
Application No. 09/667,827 :
Filed: September 22, 2000 :
Attorney Docket No. 099488-000002

ON PETITION

This is a decision on the petition, filed September 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 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 (571) 272-3210.

This matter will be forwarded to Technology Center AU 3732 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-27-09

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No. 09/667827 Patent No.: RE38945

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should these claims be entered?

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cris L Rodriguez 3732
SPE **Art Unit**

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,827	09/22/2000	Paula S. Fried	099488-000002	1694

7590 12/29/2009

Dr Paula Small
52 E End Avenue
#29AB
New York, NY 10028-7954

EXAMINER
O CONNOR, CARY E

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
12/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006-5403

In re Patent No. RE38945	:
Issue Date: January 24, 2006	:
Serial No.: 09/667,827	: PETITION DECISION
Filed: September 22, 2000	: *37CFR 1.324*
For Correction of Inventorship	:

This is a decision on the Petition filed December 15, 2009, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issueance of a certificate naming only the actual inventor or inventors.

Cris L. Rodriguez
SPE TC 3700

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Paper No. 9

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Dennis M Flaherty Esq
Ostrager Chong & Flaherty LLP
825 Third Avenue
30TH Floor
New York NY 10022-7519

In re Application of
Charles Cameron Brackett
Application No. 09/667,889
Filed: September 22, 2000
For: **METHOD AND APPARATUS FOR LINKING IMAGES AND REPORTS AT REMOTE VIEW STATION**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed December 6, 2004. No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed January 30, 2004. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner asserts that a proper response was timely filed on February 18, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt which itemized a transmittal letter and an amendment in response to the second non-final action. A copy of the amendment and transmittal letter accompanied the July 19, 20004 petition.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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187 PELHAM ISLAND ROAD
WAYLAND MA 01778

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Adam I. Pinard et al. :
Application No. 09/667,900 :
Filed: September 22, 2000 :
Attorney Docket No. I0001-009001 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 5, 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 5, 2005. A response was filed October 5, 2005 with a three month extension of time request, but by Advisory Action of November 10, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on July 6, 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 an amendment as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2624 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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OFFICE OF PETITIONS

In re	:
Russell, et al.	: DECISION REGARDING
Application No. 09/667,947	: PATENT TERM ADJUSTMENT
Filed: September 22, 2000	:
Patent No. 6,896,881	:
Issued: May 24, 2005	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed June 16, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On May 24, 2005, the above-identified application issued into patent no. 6,896,881, with a patent term adjustment (PTA) of four hundred nineteen (419) days. On June 16, 2005, applicants submitted the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT". Applicants state that the PTA of 419 days "appears to be longer than appropriate."

The Office initially determined a patent term adjustment of four hundred nineteen (419) days based on an adjustment for PTO delay of six hundred ten (610) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.703(b), reduced by one hundred forty-one (141) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8), and six (6), three (3), thirty-eight (38) and three (3) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Review of the record indicates that the PTA of four hundred nineteen (419) days as indicated on the patent is correct. It is true that applicants filed a terminal disclaimer on June 21, 2004. However, in calculating the PTA, the Office does not differentiate between patents 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 C.F.R. § 1.703(g), it is indicated in the patent that the PTA indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As the application file has already issued into a patent, the file is being returned to Files Repository.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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NOV 0 8 2005

OFFICE OF PETITIONS

In re	:
Russell, et al.	: DECISION REGARDING
Application No. 09/667,947	: PATENT TERM ADJUSTMENT
Filed: September 22, 2000	: AND
Patent No. 6,896,881	: NOTICE OF INTENT TO ISSUE
Issued: May 24, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed August 19, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

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 **three hundred seventy (370) days**.

On May 24, 2005, the above-identified application matured into U.S. Patent No. 6,896,881. The patent issued with a Patent Term Adjustment of for hundred nineteen (419) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA. Patentees direct the Office's attention to the fact that applicants filed drawings after the Notice of Allowance, and accordingly, should have been assessed applicant delay of forty-nine (49) days.

In view thereof, the correct determination of patent term adjustment is **three hundred seventy (370) days** (610 days of PTO delay, reduced by 240 days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate.

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred seventy (370) days,** subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction

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R KENT ROBERTS
HODGSON RUSS ANDREWS WOODS & GOODYEAR LLP
SUITE 2000
ONE M&T PLAZA
BUFFALO NY 14203-2391

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JUL 27 2004

OFFICE OF PETITIONS

In re Application	:	
Robert Zayatz	:	
Application No. 09/667,983	:	DECISION ON APPLICATION
Filed: September 22, 2000	:	FOR PATENT TERM ADJUSTMENT
Patent No. 6,671,187	:	
Issued: December 30, 2003	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed January 5, 2004, which is being treated as a petition under 37 C.F.R. §1.705(d). Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seventeen (17) days.

The application for patent term adjustment is **DISMISSED**. Patentee is given **thirty (30) days** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On December 30, 2003, the above-identified patent issued. The patent stated that the patent term adjustment (PTA) is zero (0) days. On January 5, 2004, patentee timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seventeen (17) days.

---

[1] The instant application for patent term adjustment was filed within 30 days of issuance of the patent.

Patentee asserts entitlement to a patent term adjustment of seventeen (17) days on the basis that the patent issued more than three years from the filing date of the application.

Patentee specifically states that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for applicant's delays of forty-three (43), five (5) and thirty-four (34) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). Applicant's delay of eighty-two (82) days has been reviewed and found to be correct.

The instant application was filed on September 22, 2000. The application did not issue into a patent until December 30, 2003. Accordingly, PTO delay should have been assessed as ninety-nine (99) days, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. §1.702(b).

However, patentee should have also been assessed delay pursuant to 37 C.F.R. §1.704(c)(8) on two additional occasions. The first occurred when patentee filed an IDS on March 12, 2002, after an amendment had been previously filed on February 15, 2002. Accordingly, applicant delay of twenty-eight (28) days should have been assessed. Secondly, patentee should have been assessed applicant delay of twenty-seven (27) days for the filing of an IDS on September 24, 2002, when an amendment had been previously filed on August 28, 2002.

In view thereof, the Patent Term Adjustment indicated in the patent is **zero (0) days** (99 days of PTO delay, reduced by 137 days (82+28+27) of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded Files Respository.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Kery A. Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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2033 K STREET NW
SUITE 800
WASHINGTON DC 20006

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of
Mitsuaki Oshima et al.
Application No. 09/668,068
Filed: July 15, 2002
Attorney Docket Number: 2000_1309

DECISION GRANTING PETITION

This is a decision on the June 22, 2004, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is also being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1).

The petition is **GRANTED**.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on August 22, 2003. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d).

37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on August 22, 2003, is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The waiver request is predicated upon the fact that the Examiner required a substitute specification because of the length of the specification and the number of amendments. It is noted that the requirement for a substitute specification is not set out in the May 22, 2003 non-Final Office Action however, petitioner points to the requirement having been made in a telephone conversation in connection with reissue application no. 09/686,464, "which is also a divisional application of reissue application 09/244,037", and that

"substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered." [1]

The instant application is a division of application no. 09/244,037 which is a reissue of patent no. 5,600,672 and according to the petition just one of many pending reissue applications of U.S. patent no. 5,600,672

A Final Office Action mailed December 24, 2003 acknowledged receipt and accepted the substitute specification submitted August 22, 2003. This basis is considered to be sufficient for granting the petition. The rule will be waived, since there is no other way to present the substitute specification that was required by the examiner, and that requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is **GRANTED**.

2. The substitute specification filed on August 22, 2003 is accepted, and has been entered.

3. The reissue application file is being forwarded to Technology Center 2634 for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

5. Telephone inquiries regarding the reissue application should be directed to Stephen Chin, TC2634 SPE, at (571) 272-3056.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

[1] No other record of the referenced telephone conversation can be found in this application file.

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#7

JUL 2 6 2001

In re Application of Jonnie R. Williams Serial Number: 09/668,144 Filed: September 25, 2000 For: METHOD OF TREATING TOBACCO TO REDUCE NITROSAMINE CONTENT, AND AND PRODUCTS PRODUCED THEREBY	:	DECISION ON PETITION

This is in response to the petition filed May 2,2001, requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Banner & Witcoff, Ltd.
1001 G Street, N.W.
Washington, DC 20001-4597

Per: Debbie Stephens - 8-28-02 - Modify as shown here OK

ICE RE: CERTIFICATES OF CORRECTION

DATE : 8/5/02

Paper No.: 20

TO : Supervisor, Art Unit 1700

SUBJECT : Certificate of Correction Request in Patent No.: 6,425,401

A response to the following question is requested with respect to the accompanying request for a certific of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should th scope or meaning of the claims be changed.

Bryan L. Hall

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, placing a check mark (+) in the box that reflects your decision, which corresponds to the question check above.

☑ YES ☐ NO ☑ Comments below

☑ **Comments:** Note the following office error in claim 53 (col. 24, line 9), "4-nitro..." should be --4-(nitro...--. Also note that the proposed change in the CofC does not affect the Exrs. reasons for allowance.

Steven P. [illegible]

Supervisor

1731

Art Unit

PTOL-306 (REV. 2/02)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark O

SPE: B. Campell

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/27/07

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/668,196 Patent No.: 7118740

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: _____

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell
SPE

1648
Art Unit

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In re Patent No. 6461312
Issue Date: October 8,2002
Application No. 09668224
Filed: September 22,2000
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 30,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6461312	2002-10-08	09668224	2000-09-22	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Edwin D. Schindler/	Date (YYYY-MM-DD)	2007-12-30
Name	Edwin D. Schindler	Registration Number	31459

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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MAR 14 2005

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MAR 14 2005

OFFICE OF THE DIRECTOR
TC 3600

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of
Makoto Hirahara et al
Application No. 09/668,296
Filed: September 25, 2000
For: VISITING PLAN GENERATION METHOD AND SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on February 25, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated November 5,2004.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents 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 Request for Continued Examination along with the Amendment After Final dated September 10, 2004. The application is then to be forwarded to the examiner.

SNM/jwk: 3/7/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 6748347
Issue Date: June 8,2004
Application No. 09668394
Filed: September 22,2000
Attorney Docket No. 35607.1917

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6748347	2004-06-08	09668394	2000-09-22	49238.1917

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	/Howard I Sobelman/	Date (YYYY-MM-DD)	2008-06-10
Name	Howard I Sobelman	Registration Number	39038

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.:20080321

DATE : March 21, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 6985260

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:

SPE: /Edward L Coles/ Art Unit 2625

JC4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 29

JOHN C HUNT
BLAKE CASSELS & GRAYDON
BOX 25 COMMERCE COURT WEST
28TH FLOOR
TORONTO , ONC M5L1A-9

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AUG 2 9 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS
ON PETITION

JC914 U.S. PTO
09/668482
09/25/00

In re Application of:
P. Martin Petkovich, et al.
Application No. 08/882,164
Filed: June 25, 1997
Attorney Docket No. ~~50767/00010~~
57600/22

This is a decision on the petition under 37 C.F.R. §1.137(b), filed May 3, 2000, to revive the above-identified application.

This application became abandoned for failure to timely reply to the notice of allowance and issue fee due and notice of allowability, both mailed on September 14, 1999. A shortened statutory period of three (3) months was set for replying to the notice of allowability. The period for replying to a notice of allowance and issue fee due is statutorily set at three (3) months.[1] No reply was received within this time period.[2] Therefore, this application became abandoned for failure to reply to both notices as of December 15, 1999.[3]

The drawings shown as having been received in the PTO on February 10, 2000 have been approved by the Official Draftsman. All other requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met. Therefore, this petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $380.00 extension of time fee submitted on February 10, 2000 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 02-2553. Further, Office finance records indicate that petitioner paid the advance order fee of $30.00 on December 13, 1999, and again on May 3, 2000. The duplicate payment of $30.00 will also be credited to petitioner's Deposit Account.

The application file is being remanded to Technology Center 1600 for a determination on the Petition under 37 C.F.R. §1.84(a), filed February 10, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nelson B. Snyder III in the Office of Petitions at (703) 305-0011.

---

[1] 35 U.S.C. §151.

[2] Nor were any requests for extensions of time to respond to the Notice of Allowability received.

[3] 35 U.S.C. §133, 37 C.F.R. §1.134-136.

RECEIVED
SEP 8 2000
ENTD FOR No Date Entered
MANUAL ☑ COMPUTER ☑

Christina Y. Tartera for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN C. HUNT
TORY'S LLP
SUITE 3000, 79 WELLINGTON STREET WEST
BOX 270, TORONTO-DOMINION CENTRE
TORONTO MSL1A-9 CA CANADA

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OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Martin P. Petkovich et al	:	
Application No. 09/668,482	:	ON PETITION
Filed: September 25, 2000	:	
Attorney Docket No. 57600/00035	:	

This is a decision on the petition under 37 CFR 1.313, filed October 1, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue "so that the accompanying Petition under 37 C.F.R. § 1.84(b)(2) may be considered." The issue fee was paid in this application on August 16, 2004.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3210.

The matter is being referred to the Office of Patent Publication.

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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JOHN C. HUNT
TORY'S LLP
SUITE 3000, 79 WELLINGTON STREET WEST
BOX 270, TORONTO-DOMINION CENTRE
TORONTO MSL1A-9 CA CANADA

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OCT 2 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Martin P. Petkovich et al :
Application No. 09/668,482 :
Filed: September 25, 2000 :
Attorney Docket No. 57600/00035 :

This is a decision on the renewed petition, filed October 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 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the previously filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

Ronald O Neerings
Texas Instruments Incorporated
M S 3999
P O Box 655474
Dallas TX 75265

MAIL

APR 02 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Nikolaus P.W. Almassy,
Application No. 09/668,502
Filed: September 22, 2000
For: SYSTEM AND METHOD FOR THE EXCHANGE OF LOCATION INFORMATION IN A TELEPHONE NETWORK

DECISION ON PETITION

This is a decision on the Request to Withdraw Notice of Abandonment filed October 14, 2003, and resubmitted on December 17, 2003 which is being treated as a Petition to Withdraw the Holding of Abandonment 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 to the non-final Office action mailed on March 26, 2003. A Notice of Abandonment was mailed September 23, 2003.

Petitioner alleges to have timely filed a proper response to said Office action. In support of the petition, Petitioner has submitted, a date-stamped post card receipt, indicating that an amendment along with a request for two month extension of time was received in the Patent and Trademark Office on September 2, 2003.

In fact, the original response has recently been located, matched and entered into the file. The response was timely received. Consequently, there is no abandonment in fact.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Any inconvenience caused to petitioner is regretted.

The application file will be forwarded to the examiner for expedited action.

Allen MacDonald

Allen Macdonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jun-05

JENKINS, WILSON & TAYLOR, P. A.
3100 TOWER BLVD
SUITE 1400
DURHAM NC 27707

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Bradley et al.	:	
Application No. 09/668,518	:	DECISION ON PETITION
Filed: 22 September, 2000	:	
Atty Docket: 125/116	:	

This is a decision on the petition under 37 CFR 1.55(a), filed 25 May, 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 and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority of a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 USC 119(a)-(d) to make the priority claim information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction under 35 USC 255 and 1.323 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Nevertheless, since the instant petition was associated with the file and is before the deciding official prior to issuance, action on the petition under 37 CFR 1.55(a) has been taken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, a certificate of correction pursuant to the provisions of 37 CFR 1.322(a) will be issued.

Any questions concerning this decision on petition should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The application file is being referred to the Publishing Division.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

05 13 2009

Paper No.: _____

DATE : 8-24-05

APP: 09/668,611

TO SPE OF : ART UNIT 2124

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file within 7 days to:

Certificates of Correction Branch - ~~PK 3-922~~ South Tower 9A22

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.

Check Drawing sheets

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:

ENTERED.

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE

2193

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

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JUL 17 2001

OFFICE OF PETITIONS
A/C PATENTS

Pennie & Edmonds
Counselors at Law
3300 Hillview Avenue
Palo Alto, CA 94304

In re Application of
Christopher S. Hagler et al.
Application No. 09/668,623
Filed: September 22, 2000
For: System and Method for Auto-Configuration of a DSL modem

: DECISION REFUSING 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 dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). The reply to this decision may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63.

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; (4) a statement of the last known address of the non-signing inventor. Applicant lacks item(s) (2) set forth above.

As to item (2), The declaration is not acceptable since it fails to state the citizenship of the nonsigning inventor. Accordingly, a new oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

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 FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries related to 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

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. 9

Pennie & Edmonds
Counselors at Law
3300 Hillview Avenue
Palo Alto, CA 94304

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AUG 1 4 2001

OFFICE OF PETITIONS

In re Application of
Christopher S. Hagler et al.
Application No. 09/668,623
Filed: September 22, 2000
For: System and Method for Auto-Configuration of a DSL Modem

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration under 37 CFR 1.47(a), filed August 1, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that the nonsigning inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(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.

The declaration filed April 3, 2001 taken in combination with the declaration filed August 1, 2001 will be accepted as complying with 37 CFR 1.63.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

Adam Powers
NURON
122 Saratoga
Santa Clara, CA 95051

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AUG 1 4 2001

OFFICE OF PETITIONS

In re Application of
Christoper S. Hagler and Adam Powers
Application No. 09/668,623
Filed: September 22, 2000
For: System and Method for Auto-Configuration of a DSL Modem

Dear Mr. Powers:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position 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 Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Latrice Bond
Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Pennie & Edmonds
Counselors at Law
3300 Hillview Avenue
Palo Alto, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

Leah Sherry
DECHERT LLP
P.O. Box 10004
Palo Alto, CA 94303-0961

MAILED

JAN 0 2 2004

Technology Center 2100

In re Application of:	)	
Birrell et al.	)	
Application No. 09/668,643	)	**DECISION ON REQUEST FOR**
Filed: September 22, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR COOPREATIVELY BACKING UP DATA ON COMPUTERS IN A NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed December 09, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed December 09, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Attn: Richard P. Lange

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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QWEST COMMUNICATIONS INTERNATIONAL INC
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER CO 80202

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 09/668,652 : ON PETITION
Filed: September 22, 2000 :
Title: Extended Multi-Line Hunt Group :
Communication

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 5, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application was held abandoned for failure to timely file a compliant supplemental appeal brief. An Appeal Brief was filed on September 22, 2005. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on December 13, 2005, providing petitioner with a one month reply period. A supplemental brief was submitted on January 19, 2006, however it was deemed non-compliant in the Notice of abandonment mailed on December 28, 2006.

Petitioner contends that the abandonment of the application should be withdrawn because the supplemental appeal brief submitted on January 19, 2006 was compliant. Petitioner states that during a telephonic conference they were informed by the examiner that the supplemental appeal brief was compliant and the abandonment was improper.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The undersigned has consulted with the

examiner in charge of this application and he disagrees that the supplemental appeal brief submitted on January 19, 2006 was compliant.

Petitioner's reliance on alleged oral advice from the examiner does not convince the Office that the holding of abandonment should be withdrawn. Pursuant to 37 CFR 1.2 All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Accordingly, the holding of abandonment will not be withdrawn.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Mark D. Chuey
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QWEST COMMUNICATIONS INTERNATIONAL INC.
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER, CO 80202

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of :
Chris E. Johnson et al :
Application No. 09/668,652 : ON PETITION
Filed: September 22, 2000 :
Attorney Docket No. 1756 (USW0587PUS) :

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being forwarded to Technology Center AU 2616 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Brooks Kushman P.C
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

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

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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APR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Paul Petrus	:	
Application No. 09/668,664	:	ON PETITION
Filed: September 22, 2000	:	
Attorney Docket No. 0015685.P068	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 5, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 6, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2685 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VMWARE/JEFFREY PEARCE
DARRYL SMITH
3401 HILLVIEW AVE.
PALO ALTO, CA 94304

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Carl A. WALDSPURGER :
Application No. 09/668,666 :
Filed: September 22, 2000 :
Attorney Docket No. Vmware8 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 19, 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 October 20, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2157 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April Wise
Petitions Examiner
Office of Petitions

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)
6,703,947	2004-03-09	09/668,695	2000-09-22	TRRA.004RA

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 Rickenbrode/	Date (YYYY-MM-DD)	2008-04-02
Name	John Rickenbrode	Registration Number	57067

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6703947
Issue Date: March 9,2004
Application No. 09668695
Filed: September 22,2000
Attorney Docket No.

:
: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.

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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GREENBERG TRAURIG LLP
MET LIFE BUILDING
200 PARK AVENUE, 14TH FLOOR
NEW YORK, NY 10166

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Victor Kaufman	:	
Application No. 09/668,721	:	ON PETITION
Filed: September 22, 2000	:	
Attorney Docket No. 2718.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 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 final Office action mailed June 14, 2004. A three (3) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is December 15, 2004. A Notice of Abandonment was mailed on February 23, 2005.

The file is being forwarded to Technology Center 3600 for review of the "Request for Continued Examination," filed December 14, 2004, with the required submission under 37 CFR 1.114, an amendment, filed May 18, 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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FEB 17 2009

OFFICE OF PETITIONS
ON PETITION

In re Patent No.: 6,820,068 :
Issue Date: November 16, 2004 :
Application No.: 09/668,763 :
Filed: September 22, 2000 :
Attorney Docket No. 60006-0011 :

This is a decision on the petition under 37 CFR 1.377 filed January 20, 2009, requesting that the Office acknowledge the 3.5-year maintenance fee for the above-cited patent as being timely received.

The petition is **granted**.

The above-identified patent issued on November 16, 2004. The 3.5 year maintenance fee was payable from the period of November 16, 2007, through May 16, 2008, and with a surcharge from May 17, 2008, through November 16, 2008. Office computer records do indicate that the 3.5-year maintenance fee was received on May 20, 2008, but was refunded on September 29, 2008.

Petitioner maintains that the 3.5-year maintenance fee was timely received by the Office. As evidence of the same, petitioner provided a copy of the Office date-stamped postcard whereby the USPTO acknowledged receipt of the 3.5-year maintenance fee for the subject patent. The petition was also accompanied by a copy of the Maintenance Fee Transmittal Form authorizing payment of the 3.5-year maintenance fee and other charges deemed necessary. The Maintenance Fee Transmittal form contains proper identifiers for the subject patent such that the maintenance fee payment could be matched to the subject patent. The petition is granted, accordingly.

Deposit account 50-1302 will be charged $465.00 for the 3.5-year maintenance fee and $65.00 for the surcharge due when the maintenance fee is paid within the latter six months of the one year period in which the maintenance fee could be paid.

The petition fee of $200.00 will be refunded in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OCT 0 3 2005

OFFICE OF PETITIONS

DAN C HU
TROP PRUNER & HU PC
8554 KATY FREEWAY
SUITE 100
HOUSTON TX 77024

In re	: DECISION REGARDING
Donzis, et al.	: PATENT TERM ADJUSTMENT
Application No. 09/668,786	:
Filed: September 22, 2000	:
Attorney Docket No.	:
12154RXUS02U	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed July 25, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred eighty-one (681) days to one thousand thirty-two (1032) 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 thirty-two (1032) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 27, 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 six hundred eighty-one (681) days. On July 25, 2005, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand thirty-two (1032) days. Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants assert entitlement to a patent term adjustment of one thousand thirty-two (1032) days on the basis that the PTO improperly assessed Applicants a delay of one hundred seventy nine (179) days for responding to an Office action mailed on March 11, 2004. Applicants assert that they filed a response on June 14, 2004, not on December 7, 2004.

The Office initially determined a patent term adjustment of six hundred eighty-one (681) days based on an adjustment for PTO delay of eight hundred forty (840) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1) and twenty (20) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by Applicants' delay of one hundred seventy-nine (179) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustments of 179 and 20 days are at issue.

The adjustment of 179 days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing a "Reply to Office Action Dated March 11, 2004", and bearing a USPTO date stamp of June 14, 2004. 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.[2] Accordingly, it is concluded that Applicants filed a reply in response to the March 11, 2004 Office action on June 14, 2004, and therefore should not have been assessed a delay of one hundred seventy-nine (179) days, but rather three (3) days.

Furthermore, in view of applicant's amendment filed June 14, 2004, the Office should have been assessed one hundred ninety-five (195) days of PTO delay pursuant to 37 C.F.R. §1.703(a)(2), not twenty (20) days, because the Notice of Allowance was not mailed until April 27, 2005.

---

[1] Applicants filed the PTA application with the issue fee.

[2] MPEP 503.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one thousand thirty-two (1032) days** (1035 (840+195) days of PTO delay and 3 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kerry A Furr
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DEC -6 2002

Paper No. 9

In re Application of
Wyatt Price Hargett, Jr. *et al*
Application No. 09/668,811
Filed: September 23, 2000
Attorney Docket No. 1700.80A

: DECISION ON PETITION

This is a decision on the petition filed on October 25, 2002 which is being treated under 37 CFR 1.181 as a request for withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated February 12, 2002. No fee is required for the petition, and the $110.00 petition fee submitted with the petition will be refunded.

It appears that petitioners filed on Information Disclosure Statement IDS) on March 13, 2001. Prior to issuing an Office action on the merits of this application, the examiner promulgated a letter noting that the IDS was deficient, and setting "a time period of 30 days for compliance" with the examiner's requirement to correct the deficiency.

It is totally unclear whether the examiner set a shortened statutory time period triggering the necessity of a reply to forestall abandonment (see 35 USC §§ 132 and 133), or a time limit for compliance under 37 CFR 1.135(c) which would not result in abandonment if no reply is filed (see 37 CFR 1.135(c) and MPEP § 710.02(d)). Perhaps if the examiner had used the appropriate form paragraph 6.51 as set forth in MPEP § 609, it would have been clear that the appropriate practice of setting a time limit was being followed.

In any event, petitioners in fact filed a reply to the March 13, 2001. Petitioners have furnished a copy of that reply as an attachment to the petition. The reply bears a 37 CFR 1.8(a) certificate of mailing dated March 12, 2002, well within the time set for reply to the examiner's requirement. It is clear, therefore, that whatever the examiner's intention was with respect to the setting of a "time period of 30 days for compliance", petitioners in fact complied and this application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to refund the $110.00 petition fee. Thereafter, the application will be forwarded to the Supervisory Patent Examiner of Art Unit 3727 who will ensure that the application receives a prompt first action which reflects consideration of the IDS that is attached to the petition.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Refund Ref:
12/18/2002 EBEMBRY 0000123110

CHECK Refund Total: $110.00

Summa & Allan, P.A.
11610 North Community House Road
Suite 200
Charlotte, NC 28277

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)
6927371	2005-08-09	09668811	2000-09-23	1700.80A

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	/Philip Summa/	Date (YYYY-MM-DD)	2009-10-19
Name	Philip Summa	Registration Number	31573

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:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6927371
Issue Date: August 9,2005
Application No. 09668811
Filed: September 23,2000
Attorney Docket No. 1700.80A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 19,2009 ,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 19,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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JUL 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Robert M. Berton et al.
Application No. 09/668,849
Filed: September 22, 2000
For: METHOD AND SYSTEM FOR AN ELECTRONIC PROCUREMENT SYSTEM FOR STATE GOVERNMENTS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 16, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), 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.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 7/15/04

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APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

In re Application of: KOJIMA, et al.
Application No. 09/668,995
Filed: September 25, 2000
For: DATA MANAGEMENT APPARATUS OF SWITCHING SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed January 27, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application under 37 CFR §1.181. This application was held abandoned for failure to file a timely response to the Office Action mailed on March 15, 2004. A Notice of Abandonment was mailed December 22, 2004.

The petition is **DISMISSED**

In support of the petition, Petitioner provides a statement that the above-mentioned Office Action was not received, and a statement from the person who would have handled the Office action had it been received. Petitioner further encloses the following: a print-out of its docket records for the file, as well as a print-out of the docket records for its attorney covering the appropriate three-month and six-month response date; a copy of the cover of its file jacket for the subjected application; and a statement by Applicant's undersigned attorney in support of the petition.

According to the MPEP §711.03(c)(I)(A), the showing required to establish non-receipt of an Office Action includes the following:

(a) a statement from practitioner that the Office action was not received;
(b) a statement from practitioner that the file jacket and docket records were searched;
(c) a copy of the docket record at the address of record; and
(d) a reference to the docket record in the practitioner's statement.

The petition fails to fully comply with requirement (d) set forth above. The evidence submitted has not overcome the presumption of receipt. The 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. In accordance with requirement (d) above, the docket report has to be from the address of record at the time the action was mailed and show all actions due by the entire firm at and around the due date for response, not counting any possible extensions of time. Furthermore, the attorney must also have been at the address of record at the time the action was mailed or have filed a timely Change of Correspondence address. There is no indication from Petitioner's enclosed printouts that the docket report is from the address of record at the time the action was mailed (Helfgott & Karas PC, Empire State Building, 60th Floor, New York, NY 10118). The practitioner is therefore respectfully requested to clarify which address the docket report is from.

Accordingly, the petition is **DISMISSED**.

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 Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/21/05

SDL: 04/18/05

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TECHNOLOGY CENTER 2100

Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-2585

In re Application of: Kojima, et al.	)	
Application No. 09/668,995	)	DECISION ON PETITION TO
Attorney Docket No. FUJY17.788	)	WITHDRAW HOLDING OF
Filed: September 25, 2000	)	ABANDONMENT UNDER 37 CFR
For: DATA MANAGEMENT	)	§1.181
APPARATUS OF SWITCHING SYSTEM	)	

This is a decision on the request for reconsideration filed on May 3, 2005. The instant application was held abandoned for failure to respond to the non-final Office action mailed March 15, 2004. A petition to withdraw the holding of abandonment based on failure to receive the office action (M.P.E.P. §711.03(c)) was timely filed on January 27, 2005 and subsequently dismissed in the decision mailed on April 28, 2005 for the reasons set forth therein.

Petitioner has provided supplemental evidence in the latest filing which includes practitioner's statement asserting to the fact that the copy of the docket report (previously provided with the petition of January 27, 2005), were from the docketing records (docketing system) at the address of record, Helfgott & Karas, PC (Empire State Building, 60th floor, New York, NY 10118) transferred to the docketing system at Katten Muchin Zavis Rosenman (now Katten Muchin Rosenman LLP).

According to MPEP §711.03(c)(I)(A), the showing required to establish non-receipt of an Office action includes the following:

> a) a statement from the practitioner that the Office communication was not received;
> b) a statement from the practitioner that the file jacket and docket records were searched;
> c) a copy of the docket record (where the non-received Office communication would have been received and docketed) at the address of record; and
> d) a reference to the docket record in the practitioner's statement.

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 and restore the instant application to pending status, before **REDATING** and **REMAILING** the non-final Office action (originally mailed March 15, 2004) to the Applicant.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

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JUL 23 2003

OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON MA 02209

In re Application of
Nicolas F. Franano
Application No. 09/669,051
Filed: September 24, 2000
Attorney Docket No. 55225

ON PETITION

This is a decision on the petition, filed July 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 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 1651 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JUL 23 2003

OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON MA 02209

In re Application of
Nicolas F. Franano
Application No. 09/669,051
Filed: September 24, 2000
Attorney Docket No. 55225

ON PETITION

This is a decision on the petition, filed July 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 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 1651 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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Paper No. 11

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY, CA 94704-0778

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of
Claesson
Application No. 09/669,069
Filed: December 20, 2000
Attorney Docket No. OCTIV-01

ON PETITION

This decision concerns the "Petition for Request to Change Filing Date under 37 CFR 1.182" submitted by facsimile on January 28, 2004.[1]

The petition is **DISMISSED as moot.**

On September 22, 2000, the application was deposited in the USPTO.

On November 6, 2000, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" ("11/6/00 Notice"), stating that the application had been accorded the September 22, 2000 filing date, but that Figures 3(a), 3(b) and 5-8 described in the specification appeared to have been omitted from the application as filed on September 22, 2000.[2]

The 11/6/00 Notice set forth 3 options:

(I) If the apparently omitted drawings have indeed been deposited with the other application papers on September 22, 2000, a petition (under 37 CFR 1.53) along with evidence of such deposit may be filed;

(II) If Applicant does not dispute the 11/6/00 Notice, the omitted drawings may be filed with a petition under 37 CFR 1.182, such that the application filing date would be changed to the date on which the omitted drawings were submitted;

(III) Absent the filing of a petition under either option (I) or (II), the application will retain its originally-accorded September 22, 2000 filing date, and the original application will only consist of the papers deposited on September 22, 2000.

---

1 This is a duplicate of the petition previously filed on 12/20/00. See *infra* discussion.

2 Also missing were: a properly signed oath/declaration, and extra claim fee.

On December 20, 2000, Applicant responded to the 11/6/00 Notice with the filing of a new set of drawings (Figures 1-2, 3(a), 3(b), 4-8) along with a petition under 37 CFR 1.182. In addition, the petition stated that wrong drawings had been deposited on September 22, 2000, and should be replaced with those filed on December 20, 2000 with the petition.

Clearly, Applicant selected option (II) above, and OIPE subsequently accorded the application the later filing date of December 20, 2000, which is exactly what Applicant requested in the December 20, 2000 §1.182 petition.

In view of the above, the January 28, 2004 §1.182 petition is dismissed as moot.

A duplicate Filing Receipt reflecting the December 20, 2000 filing date is attached.

The application file is being returned to Technology Center 2600 to await a response to the January 20, 2004 non-final Office Action.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

Brian Hearn for

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Filing Receipt (filing date 12/20/00; duplicate)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 26, 2003

Daniel D. Ryan
Ryan Kromholz & Manion
P. O. Box 26618
Milwaukee, WI 53226

In re application of:
Aboul-Hosn DECISION ON PETITION
Serial No.: 09/669,104
Filed: September 25, 2000
For: SINGLE PORT CARDIAC SUPPORT APPARATUS

This is a decision on the petition received on October 22, 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 November 29, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 30, 2001. The notice of abandonment was mailed August 21, 2002.

On October 22, 2002, the office received a communication from the attorney not of record. Enclosed was an acknowledgment that the attorney who filed the application had completed all the requirements at filing.

The evidence submitted is sufficient to establish that the petitioners requested the fees charged to Deposit Account 50-1026. The Deposit Account had insufficient funds available.

The petition is hereby DISMISSED.

The power of attorney for the new attorney has not been received in the office. All correspondence will be designated to the addressed in the application at the time of filing.

Petitioner(s) may wish to consider filing a petition to the Commissioner under 37 CFR 1.37(a or (b) requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing

application in a non provisional application abandoned for failure to prosecute (2) the $110 petition fee required by 37 CFR 1.17(l) ($55 if petitioner has

established small entity status); (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay 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; (2) the $1210 petition fee required by 37 CFR 1.17(l) ($605 if petitioner has established small entity status; (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)(in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The applicant may direct further correspondence regarding this application to:

Box DAC
Office of Petitions
Assistant Commissioner for Patents
Crystal Plaza 4 CP-3C23
South Clark Place
Arlington, VA 2202

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.
703-308-3640

A-Med Systems Inc.
2491 Boatman Avenue
West Sacramento, CA 95691

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Paper No. 17

DANIEL D. RYAN
RYAN KROMHOLZ & MANION, S.C.
P.O. BOX 26618
MILWAUKEE, WS 53226

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OFFICE OF PETITIONS

In re Application of
Walid Aboul-Hosn
Application No. 09/669,104
Filed: September 25, 2000
Attorney Docket No. 0261-16761-DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on January 30, 2001, for failure to reply in a timely manner to the Notice to File Missing Parts of Application mailed November 29, 2000. A Notice of Abandonment was mailed August 21, 2002. In response, on October 22, 2002, a petition to withdraw the holding of abandonment was filed; however, the petition was dismissed in a decision mailed March 26, 2003. The present petition is found to be in compliance with 37 CFR 1.137(b).

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

The application file is being forwarded to the Office of Initial Patent Examination.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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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JUL 19 2001

Paper No. 6

In re Application of
David L. Patton *et al*
Application No. 09/669,117
Filed: September 25, 2000
Attorney Docket No. 81531PF-P

: DECISION ON PETITION

This is a decision on the petition filed on July 12, 2001 by which petitioners request that color drawings be accepted in this application.

The petition is dismissed.

Color drawings are acceptable only when they are necessary as the only practical medium by which the subject matter sought to be patented can be disclosed in a utility application. See 37 CFR 1.84(a)(2) and MPEP § 608.02.

The instant petition neither alleges as much, nor contains a showing which would support such a conclusion. The petition merely alleges a belief that "[C]olored drawings are required to properly illustrate on of the main features of the invention...", and that the use of colored drawings "in this instance enhances the ability to see this important feature." These allegations are clearly insufficient as a basis for approving the use of color drawings in this application, because even if supported factually, they do not establish that the use of color drawings are necessary as the only practical way in which the subject matter sought to be patented can be disclosed in this application.

The application is being returned to the examiner for action appropriate action. The examiner should note that in the event that color drawings are ultimately not admitted into the record, the statement beginning at line 6 of page 3 of the specification must be deleted from the application.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
PATTON, DAVID L., et al
Serial No.: **09/669,177**
Filed: **September 25, 2000**
For: **MATCHING IMAGE CHARACTERISTICS OF STAMPS AND PERSONAL IMAGES TO AESTHETICALLY FIT INTO A PERSONAL POSTAL PRODUCT**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, May 24, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 2, 4a, 4b, 4c, 4f, 5a, and, 5b, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON, D.C. 20231
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Paper No. 5

Vidya R. Bhakar
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San Jose, California 95172-1030

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NOV 2 6 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: You-Sung Chang et al.)
Application No. 09/669,208)
Filed: September 25, 2000)
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR STORING AN INCOMING DATAGRAM IN A SWITCH MATRIX FABRIC CHIPSET SYSTEM)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 1, 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: Vidya R. Bhakar
Squire, Sanders & Dempsey, LLP
600 Hansen Way
Palo Alto, California 94304-1043

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Joseph Sofer
SOFER & HAROUN, L.L.P.
Suite 910
317Madison Avenue,
New York NY 10017

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of :
Danny H. Kuighadush :
Application No. 09/669,245 :
Filed: September 25, 2000 :
Attorney Docket No. 845-002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 2, 2003, which set a shortened statutory period for reply of three(3) months. A two(2) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 3, 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. 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 two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application file is being forwarded to Technology Center 3700, Art Unit 3727 for consideration.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/18/07

TO SPE OF : ART UNIT 3700

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/669312 Patent No.: 6569099

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: IDS already considered 1/26/05 and is a duplicate see attached. SEF

04/30/07

SPE **Art Unit** 3742

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No. 10

Fritz Schaefer
Industrial Microwave Technologies, Inc.
545 Brandywine Drive
Colorado Spring, CO 80906

COPY MAILED

AUG 12 2003

OFFICE OF PETITIONS

In re Application of
Fritz Schaefer
Application No. 09/669,400
Filed: September 22, 2000
Title: PROCESS FOR TREATING WASTE OIL

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 4, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed August 15, 2002. This Notice set a time period of ONE MONTH from the mailing date of the notice to meet the requirements of 37 CFR 1.121, with extensions of time obtainable under § 1.136(a). No reply having been received and no extensions of time obtained, the application became abandoned effective September 16, 2002. A courtesy Notice of Abandonment was mailed on May 2, 2003. In response, petitioner timely filed the instant petition under § 1.137(a).

35 U.S.C. §133 provides that the Commissioner may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Commissioner to have been unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 CFR § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d). Requirement (3) is at issue in this case.

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Petitioner asserts that the delay in replying to the Notice was unavoidable as he never received the Office action dated August 15, 2002. However, petitioner submitted no docket records in support of this contention and included no statements attesting to the fact that a search of the file jacket and docket records indicated that the Office communication was not received.

A review of the Notice mailed August 15, 2002 reveals that the Office letter was mailed to the correspondence address of record. The record reveals no irregularity in mailing. Petitioner's evidence does not overcome the presumption that the communication was properly mailed to the applicant at the correspondence address of record. The showing required to establish non-receipt of an Office communication must include a statement from the pro se applicant stating that the Office communication was not received by applicant and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in applicant's statement. Petitioner has not submitted such evidence. See MPEP 711.03(c).

Having not made an adequate showing of non-receipt of the Office action or otherwise, shown unavoidable delay, the petition cannot be granted under §1.137(a).

Alternative Venue

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 request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 12

Fritz Schaefer
Industrial Microwave Technologies, Inc.
545 Brandywine Drive
Colorado Spring, CO 80906

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of
Fritz Schaefer
Application No. 09/669,400
Filed: September 22, 2000
Title: PROCESS FOR TREATING WASTE OIL

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 25, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed August 15, 2002. This Notice set a time period of ONE MONTH from the mailing date of the notice to meet the requirements of 37 CFR 1.121, with extensions of time obtainable under § 1.136(a). No reply having been received and no extensions of time obtained, the application became abandoned effective September 16, 2002. A courtesy Notice of Abandonment was mailed on May 2, 2003.

In response, petitioner timely filed the initial petition under § 1.137(a). However, the petition was dismissed for failure to make an adequate showing of unavoidable delay. Petitioner asserted nonreceipt of the Office action dated August 15, 2002, but failed to submit docket records in support of this contention and made no statements attesting to the fact that a search of the file jacket and docket records indicated that the Office communication was not received (Decision mailed August 25, 2003).

On instant renewed petition, petitioner stated that he is a *pro se* applicant and as such, does not have a docket record. He further attested to having searched his file and having no record of the Office action.

This evidence has been considered, but found insufficient to meet applicant's burden of showing unavoidable delay. See MPEP 711.03(c). *Pro se* applicants may not have as elaborate a docketing system as a law firm. This does not warrant a total waiver of the requirement of a showing that includes copies of docket records or an adequate proxy for such copies. A *pro se* applicant should have some written records evidencing receipt of communications from and mailing of communications to the Office available to provide proof of nonreceipt. It is suggested that applicants maintain a log of communications from and to the Office, with dates of receipt, due dates and mailing dates of responses and other papers filed noted. Furthermore, applicants may maintain entries on the file jackets noting these important dates. Absent such evidence, applicants may not be able to overcome the presumption that the correspondence was properly mailed and received at the correspondence address of record and thereafter, misplaced by applicants.

In this instance, petitioner has stated that he searched his file, he has no record of receiving the Office action and that he does not have a docketing system. However, the petition includes no evidence, in the form of written records, to support petitioner's claim of nonreceipt. The burden is on petitioner to provide adequate evidence. Petitioner has not met this burden.

Having not made an adequate showing of non-receipt of the Office action or otherwise, shown unavoidable delay, the petition cannot be granted under § 1.137(a).

Alternative Venue

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 request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 15

Fritz Schaefer
Industrial Microwave Technologies, Inc.
545 Brandywine Drive
Colorado Spring, CO 80906

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OCT 07 2003

OFFICE OF PETITIONS

In re Application of :
Fritz Schaefer :
Application No. 09/669,400 :
Filed: September 22, 2000 :
Title: PROCESS FOR TREATING WASTE :
OIL :

DECISION ON PETITION

This is a decision on the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 1.137(b)," filed September 29, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed August 15, 2002. This Notice set a time period of ONE MONTH from the mailing date of the notice to meet the requirements of 37 CFR 1.121, with extensions of time obtainable under § 1.136(a). No reply having been received and no extensions of time obtained, the application became abandoned effective September 16, 2002. A courtesy Notice of Abandonment was mailed on May 2, 2003.

Initial and renewed petitions under § 1.137(a), filed August 4, 2003 and August 25, 2003 respectively, were dismissed for failure to make an adequate showing of unavoidable delay (Decisions mailed August 12, 2003 and August 26, 2003 respectively).

On instant petition, petitioner requested revival based on unintentional delay. The petition included the reply required to the outstanding Office action in the form of an amendment; the petition fee set forth in 37 CFR § 1.17(m); and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

The application file is being forwarded to Technology Center 1764 for consideration of the amendment by the examiner.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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LAW OFFICES OF DALE B HALLING
24 S. WEBER, STE 311
COLORADO SPRING CO 80906

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of
Fritz Schaeffer
Application No. 09/669,400
Filed: September 22, 2000
Attorney Docket No. 52647-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Although a three month extension of time was filed October 4, 2004 with the response to a Final Office Action mailed April 4, 2004, the instant application became abandoned on October 5, 2004, for failure to submit a proper and timely response to the office action. By Advisory Action dated November 3, 2004, petitioners were informed that the reply filed October 4, 2004, did not place the application in condition for allowance. A Request for Continued Examination (RCE) was filed December 2, 2004 but a petition to revive had not been filed.

---

[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)).

Since the petition is now grantable, the RCE and amendment submitted November 3, 2004 have been entered.

This matter is being referred to Technology Center 1764 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Washington, D.C. 20231
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LAW OFFICES OF DALE B HALLING
24 S. WEBER, STE 311
COLORADO SPRING CO 80906

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OFFICE OF PETITIONS

In re Application of :
Frederick Anthony Schaeffer et al. :
Application No. 09/669,400 : ON PETITION
Filed: September 22, 2000 :
Attorney Docket No. 52647-1 :

Papers submitted October 4, 2004 seek to correct the inventorship of the above referenced application with the addition of Howard M. Kingston and Abdulaq Al-Khalidi, however without the signatures of Mr. Kingston or Mr. Al-Khalidi. This request is treated under both 37 CFR 1.48 and under 37 CFR 1.47(a).

The petition under 37 CFR 1.48 is DISMISSED.
The petition under 37 CFR 1.47(a) 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR §§ 1.48 and 1.47.

The application was filed naming Fritz Schaeffer as the sole inventor. It was later learned that Howard M. Kingston and Abdulhaq Al-Khalidi were co-inventors and petitioner seeks under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Howard M. Kingston and Abdulhaq Al-Khalidi . 37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and 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 (h); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The oath or declaration submitted with the petition is not signed by either Mr. Kingston or Mr. Al-Khalidi. Petitioners argue that joint inventors Kingston and Al-Khalidi appear to be either unwilling or unable to cooperate with the furthering prosecution of the above-identified application and in lieu of a declaration executed by Mr. Kingston and Al-Khaldi, seeks status under 37 CFR § 1.47(a). A grantable petition under 37 CFR § 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Petitioners have shown that the complete application in this matter has been mailed to Mr. Kingston and that while Mr. Kingston has received the package, he has not either responded or returned an executed copy of the oath or declaration or the statement of inventorship error. With respect to Mr. Al-Khalidi, petitioners have shown that the complete application in this matter has been mailed to Mr. Al-Khalidi, that Mr. Al-Khalidi has received it and further that Mr. Al-Khalidi has expressly refused to cooperate with the correction of inventorship and with the filing of the instant application.

However, petitioners have not filed either request under 37 CFR 1.48 and 37 CFR 1.47 with the appropriate fees pursuant to 37 CFR 1.17(h) in effect at the time the petition was filed, a statement of the last known addresses of the non-signing inventors or provided an assent of assignee to correction and/or addition of inventor. The petition therefore fails for lack of compliance with items (2), (3) and (4) under 37 CFR 1.47 and items (2), (3) and (4) under 37 CFR § 1.48.

In view thereof, the inventorship of this application cannot be changed and the petitions cannot be granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS LLP
1725 K STREET, N.W., SUITE 1000
WASHINGTON, D.C. 20006

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Ryouji Hiroyama et al :
Application No. 09/669,448 : ON PETITION
Filed: September 25, 2000 :
Attorney Docket No. 2968

This is a decision on the petition, filed November 16, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 13

DOWELL & DOWELL, P.C.
Suite 309
1215 Jefferson Davis Highway
Arlington, VA 22202-3124

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APR 8 2003
OFFICE OF DIRECTOR
GROUP

In re Application of
IFERGAN et al.
Application No. 09/669,492
Filed: September 25, 2000
For: EYEGLASS DEVICE

DECISION ON PETITION
TO WITHDRAW THE HOLDING
OF ABANDONMENT

This is a decision on the petition, filed on November 26, 2002, to withdraw the holding of abandonment of the above-identified application. No fee is required for this petition.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Office action of April 11, 2002. A Notice of Abandonment was mailed on November 12, 2002.

Petitioner states that a response to the Office action was filed on October 11, 2002, along with a check in payment of the extension-of-time fees, but the examiner held the application to be abandoned because the amendment was unsigned. Petitioner argues that the response was a *bona fide* attempt to advance the application to final action, and in accordance with MPEP 714.03, the applicant should be provided a new time period under 37 CFR 1.135(c) to supply the omitted signature. The petition includes a signed copy of the response to the Office action of April 11, 2002.

An inspection of the application file indicates that the examiner did not consider the response filed on October 11, 2002 to be either a proper reply, or a *bona fide* attempt at a proper reply to the non-final Office action, for the reason that the amendment is unsigned. While the response is not a proper reply insofar as it is unsigned, the examiner does not indicate why the response is not a *bona fide* attempt at a proper reply. An inspection of the response indicates that the applicant attempted to address the rejections in the Office action of April 11, 2002, and thereby to advance the application to final action. Accordingly, it is concluded that the response filed on October 11, 2002 was a *bona fide* attempt at a proper reply to the Office action, but contained a serious omission, namely, the response was unsigned.

As set forth in MPEP 714.03, where an amendment is *bona fide* but contains a serious omission and there is insufficient time remaining for applicant's reply to be filed within the time period for reply to a non-final Office action, the examiner **should** set a 1-month period to complete the reply pursuant to 37 CFR 1.135(c). Thus, the examiner should have given the applicant a 1-month period to correct the omission (e.g., provide ratification), in lieu of holding the reply inadequate to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135. See also MPEP 710.01. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In view of the filing of a signed copy of the response to the Office action of April 11, 2002, it is deemed appropriate under the present circumstances to accept the response as being timely filed.

The application file is being forwarded to the technical support staff for Technology Center 2800 for processing of the response filed on October 11, 2002, and ratified on November 26, 2002.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

JF/EG/jc

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

MITCHELL P. NOVICK
LAW OFFICE OF MITCHELL P. NOVICK
66 PARK STREET
MONTCLAIR, NJ 07042

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Robert Bishop et al	:	
Application No. 09/669,655	:	ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. 1652-1168	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 1, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 2, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3673.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 22

MITCHELL P. NOVICK
LAW OFFICES OF MITCHELL P. NOVICK
66 PARK STREET
MONTCLAIR, NJ 07042

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NOV 01 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Robert Bishop et al	:
Application No. 09/669,655	:
Filed: September 26, 2000	:
Attorney Docket No. 1652-1168	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 3673 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
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OCT 2 7 2008

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

Paper No. 27

In re Application of	:	
Robert Bishop et al.	:	
Application No. 09/669,655	:	DECISION ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. 081789-0015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to expedite filed July 17, 2008.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Additionally, since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b) (3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b) (3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition. *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management for processing into a patent.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Bishop et al.	:	**CORRECTED**
Application No. 09/669,655	:	DECISION ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. 081789-0015	:	

This is a corrected decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition filed July 17, 2008.

The decision mailed October 27, 2008 has been **VACATED**.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Additionally, since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b) (3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b) (3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition. *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The application became abandoned for failure s to timely pay the issue fee on or before June 23, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 24, 2005.

The issue fee has been received. However, there is no indication that corrected formal drawings as required by the Notice of Allowability of March 23, 2005 have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

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.**

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Bishop et al.	:	
Application No. 09/669,655	:	DECISION ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. 081789-0015	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed March 23, 2005 which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 24, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee and corrected formal drawings, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-07

FREDERICK W. GIBB, III
GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
William Scott Spangler	:	DECISION ON PETITION TO
Application No. 09/669,680	:	WITHDRAW HOLDING OF
Filed: 09/26/2000	:	ABANDONMENT
Attorney Docket No. ARC9-2000-	:	
0079US1	:	

This is a decision on the petition to withdraw the holding of abandonment in the above-identified application, filed on 1 November, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 26 July, 2005. Notice of Abandonment was mailed on 13 October, 2005.

Petitioner asserts that a response to the Notice was timely filed on 24 August, 2005. In support, petitioner has supplied a copy of an amendment. The amendment contains a Certificate Under 37 CFR 1.8 dated 24 August, 2005, signed by petitioner's counsel Frederick W. Gibb. Petitioner has also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 11 pages, including the first page of the reply, were received at the USPTO on 24 August, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(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 on personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioner has provided convincing evidence that a reply to the Notice mailed on 26 July, 2005, was transmitted to the USPTO on 24 August, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The application is being referred to Technology Center Art Unit 2178 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 17

JUN 11 2003

BOSE MCKINNEY & EVANS LLP
115 N PENNSYLVANIA ST
SUITE 2700
INDIANAPOLIS, IN 46204

In re Application of Mobley et al.	:	
	:	DECISION
Application No. 09/669707	:	ON PETITION
Filed: 09/26/2000	:	
Attorney Docket No. 8266-0474	:	

This is a decision on the petition, filed April 15, 2003, requesting that the prosecution in the above-identified patent application be suspended for an additional six months beyond the 6 months that prosecution was suspended under 37 C.F.R. § 1.103(a).

Regarding a suspension on request of the applicant, 37 CFR 1.103(a) provides:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office

In the Request, to establish cause, Petitioner asserts the claims and issues of the instant application are relevant to the disputed inventorship and ownership of Reichow. Consequently, since the outcome of the civil case in regards to Reichow may materially affect prosecution of the instant application, good and sufficient reasons have been demonstrated to warrant suspension of action.

Accordingly, the petition to suspend prosecution is GRANTED for a period of up to six (6) months starting from the filing of petition, April 15, 2003.

Richard Seidel, 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
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Clark & Elbing, LLP
101 Federal Street
Boston, MA 02110

In re Patent No. 6,689,608	:	
Issue Date: February 10, 2004	:	
Application No. 09/669,760	:	NOTICE
Filed: September 26, 2000	:	
Attorney Docket No. 01997/518003	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 16, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of Oshima, et. al. Application No. 09/669,916 Filed: September 25, 2000 Attorney Docket No. 2000_1326	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR §1.183

This is a decision on the March 9, 2007, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1) in addition to waiver of 37 CFR 1.125(d).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is GRANTED.

A fee of $400.00 has been received and processed for the petition under 37 CFR 1.183.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on August 1, 2003. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on August 1, 2003 is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The reissue application was originally filed with a specification that did not comply with 37 CFR 1.173(a)(1). On August 1, 2003, a substitute specification was filed together with a supplemental amendment. The substitute specification includes bracketing and underlining to show the changes relative to the patent specification. Applicant states that no new matter was added.

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that "in a telephone conversation with the Examiner in connection with reissue

application 09/686,464, which is also a divisional application of reissue application 09/244,037, the Examiner required a substitute specification and indicated that substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered.[1]"

This basis is considered to be sufficient for granting the petition. The rule will be waived to comply with the requirement of the examiner, since there is no other way to present the required substitute specification, and the requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. The substitute specification filed on August 1, 2003 is accepted, and will be entered.

3. The reissue application file is being forwarded to the Technology Center for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Amelia Au, Office of Petitions, at (571) 272-7414.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

[1] No other record of the referenced telephone conversation can be found in this application file.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:2/23/2006

DATE : February 23, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,825,216 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** **All** changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

In a telephonic conversation with Mr. Ian McLeod on August 22, 2005, it was agreed that not all of the corrections listed comport with the record. Specifically, all of the corrections may be entered with the exception of the correction to the structure of column 7, line 40.

Joseph K. McKane

SPE: Joseph K. McKane **Art Unit** 1626

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)
6609725	2003-08-26	09670060	2000-09-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/glennlwebb32668/	Date (YYYY-MM-DD)	2008-06-24
Name	Glenn L. Webb	Registration Number	32668

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. 6609725
Issue Date: August 26,2003
Application No. 09670060
Filed: September 25,2000
Attorney Docket No. SILENT

:
: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.

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Term: L8 and (16kd antigen and 30kd antigen)

Display: 40 Documents in Display Format: CIT Starting with Number 1

Generate: Hit List Hit Count Side by Side Image

Search Clear Interrupt

Search History

DATE: Friday, December 05, 2008 Purge Queries Printable Copy Create Case

Set Name side by side	Query	Hit Count	Set Name result set
	DB=USPT; PLUR=YES; OP=ADJ		
L9	L8 and (16kd antigen and 30kd antigen)	0	L9
L8	L7 and (antibodies)	25	L8
L7	L6 and (mixture)	30	L7
L6	l1 and (treatment)	36	L6
L5	antibodies to 30kd antigen	0	L5
L4	antibodies 30kd antigen	0	L4
L3	antibodies 16kd	0	L3
L2	mixture of isolated antibodies against mixture of 16 kDa and 30 kDa antigen	0	L2
L1	Sarcocystis neurona	37	L1

END OF SEARCH HISTORY

OIPE IAP68
MAR 0 2 2007
PATENT & TRADEMARK OFFICE

PLEASE ENTER ,

P.B.12/2/08

AF

IFW

AMENDMENT TRANSMITTAL LETTER (Small Entity) Applicant(s): L. Mansfield, M. Rossano, A. Murphy and R. Vrable	Docket No. MSU 4.1-526

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/670,096	09/26/2000	Padmavathi Baskar	21036	1645	7494

Invention: VACCINE TO CONTROL EQUINE PROTOZOAL MYELOENCEPHALITIS IN HORSES

COMMISSIONER FOR PATENTS:

Transmitted herewith is an amendment in the above-identified application.

☒ Applicant claims small entity status. See 37 CFR 1.27

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST # PREV. PAID FOR		NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	2	-	20	=	0	x $25.00	$0.00
INDEP. CLAIMS	1	-	3	=	0	x $100.00	$0.00
Multiple Dependent Claims (check if applicable) ☐							$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT							$0.00

☒ No additional fee is required for amendment.

☐ Please charge Deposit Account No. in the amount of

☐ A check in the amount of to cover the filing fee is enclosed.

☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 13-0610

- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☒ Any patent application processing fees under 37 CFR 1.17.

☐ Payment by credit card. Form PTO-2038 is attached.

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.

Ian C. McLeod

Signature

Dated: February 27, 2007

Ian C. McLeod
Registration No. 20,931
Ian C. McLeod, P.C.
2190 Commons Parkway
Okemos, Michigan 48864
(517) 347-4100

I 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" [37 CFR 1.8(a)] on February 27, 2007.

(Date)

Tammi L. Taylor

Signature of Person Mailing Correspondence

Tammi L. Taylor

Typed or Printed Name of Person Mailing Correspondence

cc:

OIPE
MAR 0 2 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/670,096 Confirmation No.7494

Applicants : Linda S. Mansfield, Mary G. Rossano, Alice J. Murphy, and Ruth A. Vrable

Title : VACCINE TO CONTROL EQUINE PROTOZOAL MYELOENCEPHALITIS IN HORSES

Filed : September 26, 2000

TC/A.U. : 1645

Examiner : Padmavathi Baskar, Ph.D.

Docket No. : MSU 4.1-526

Customer No. : 21036

Mail Stop Amendment AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.116(b)(1)

Sir:

In response to the Office Action mailed December 27, 2006, Applicants amend and remark as follows:

Amendments to the Claims are reflected in the Listing of Claims which begins on page 2 of this paper.

Remarks begin on page 4 of this paper.

PLEASE ENTER,

P.B.12/2/08

IFW AF/1645

Practitioner's Docket No. MSU 4.1-526 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Linda S. Mansfield, Mary G. Rossano, Alice J. Murphy and Ruth A. Vrable

Application No.: 09 / 670,096 Group No.: 1645

Filed: September 26, 2000 Examiner: Padmavathi Baskar

For: VACCINE TO CONTROL EQUINE PROTOZOAL MYELOENCEPHALITIS IN HORSES

OIPE JC46 AUG 2 3 2004 PATENT & TRADEMARK OFFICE

RESPONSE UNDER 37 C.F.R. § 1.116 EXPEDITED PROCEDURE EXAMINING GROUP

Corres. and Mail BOX AF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: To take advantage of the expedited procedure the envelope in which this paper is mailed must be addressed as shown and must also be marked "Box AF" in the lower left hand corner. Alternatively, this paper can be hand carried to the particular Examining Group or other area of the Office in which the application is pending, in which case any envelope in which this paper is placed must be marked as in the bold type box above. Notice of Sept. 20, 1985 (1059 O.G. 19-20). See M.P.E.P. § 714.13, 7th ed.

AMENDMENT OR RESPONSE AFTER FINAL REJECTION—TRANSMITTAL

1. Transmitted herewith is an amendment after final rejection (37 C.F.R. § 1.116) for this application.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory; Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a) — ☒ with sufficient postage as first class mail.

37 C.F.R. § 1.10 * — ☐ as "Express Mail Post Office to Addressee" Mailing Label No. _____ **(mandatory)**

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____-_____

Tammi L. Taylor
Signature

Date: 08/20/04

Tammi L. Taylor
(type or print name of person certifying)

** Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

08/23/2004 HVUONG1 00000112 09670096

01 FC:1252 420.00 OP

NOTE: Response to Final Rejection—Avoiding Extension Fees "In patent applications wherein a three month Shortened Statutory Period (SSP) is set for response to a Final Rejection, the response would best be filed within two months of the date of the Office Action. If filed within two months, any Advisory Action mailed after the SSP expires will reset the SSP to expire on the date of the Advisory Action for extension fee purposes, but never more than six months from the date of the Final Rejection." Notice of Nov. 30, 1990 (1122 O.G. 571 to 591). See M.P.E.P. § 714.13, 6th ed., rev. 3.

STATUS

2. Applicant is

☒ a small entity. A statement:

☐ is attached.

☒ was already filed.

☐ other than a small entity.

EXTENSION OF TERM

NOTE: As to a Supplemental Amendment filed in response to a final office action, the Notice of December 10, 1985 (1061 O.G. 34-35) states:

"If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."

3. *(complete (a) or (b), as applicable)*

(a) ☒ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 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	$ 420.00	$ 210.00
☒ three months	$ 950.00	$ 475.00
☐ four months	$ 1,480.00	$ 740.00

Fee: $475.00

If additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

☒ An extension for 1 months has already been secured and the fee paid therefor of $ 55 is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request $ 420.00

OR

(b) ☐ 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.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY			OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA	RATE	ADDIT. FEE	OR	RATE	ADDIT. FEE
TOTAL	* 3	MINUS	** 20	=	-0-	×$9=	$ 0.00		×$18=	$
INDEP.	* 2	MINUS	*** 3	=	-0-	=$43=	$ 0.00		=$86=	$
☐ FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					-0-	+$145=	$ 0.00		+$290=	$
						TOTAL ADDIT. FEE	$ $ 0.00	OR	TOTAL	$

* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
** If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20."
*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3."
The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: *See 37 C.F.R. § 1.116.*

(complete (c) or (d), as applicable)

(c) ☒ No additional fee is required.

OR

(d) ☐ Total additional fee required is $ _____.

FEE PAYMENT

5. ☒ Attached is a ☒ check ☐ money order in the amount of $ 420.00

☐ Authorization is hereby made to charge the amount of $ _____

☐ to Deposit Account No. _____

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: *Credit card information should **not** be included on this form as it may become public.*

☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

FEE DEFICIENCY

NOTE: Where there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the case. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Account No. 13-0610

AND/OR

☒ If any additional fee for claims is required, charge Account No. 13-0610.

SIGNATURE OF PRACTITIONER

Reg. No.: 20,931

Ian C. McLeod
(type or print name of practitioner)

Tel. No.: (517) 347-4100

2190 Commons Parkway
P.O. Address

Customer No.: 21036

Okemos, Michigan 48864

AUG 2 3 2004
JC46
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Linda S. Mansfield, Mary G. Rossano, Alice J. Murphy, and Ruth A. Vrable

Serial No. : 09/670,096 Confirmation No.: 7494

Filing Date : September 26, 2000

Title : VACCINE TO CONTROL EQUINE PROTOZOAL MYELOENCEPHALITIS IN HORSES

Group Art Unit : 1645

Examiner : Padmavathi Baskar, Ph.D.

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.116

Sir:

In response to the Office Action mailed February 18, 2004, Applicant amends and remarks as follows:

Amendments to the Claims are reflected in the Listing of Claims which begins on page 2 of this paper.

Remarks begin on page 4 of this paper.

UNITED STATES 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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JUL 12 2010

OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Patent of Conwell	:	DECISION ON REQUEST
Patent No. 7,657,064	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 09/670,113	:	AND NOTICE OF INTENT TO
Filing Date: September 26, 2000	:	ISSUE CERTIFICATE OF
Attorney Docket No. 60299	:	CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by two thousand seven hundred seventy-two (2772) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by two thousand seven hundred seventy-two (2772) days is **GRANTED to the extent indicated herein.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is 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 37 C.F.R. § 1.136.

The periods of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay"), 35 U.S.C. § 154(b)(1)(C) ("C Delay"), and 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") are not in dispute. The period of A Delay is 662 days, the period of C Delay is 1142 days, and the period of Applicant Delay is 162 days.

The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is in dispute. Petitioner asserts B delay is 2321 days. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. A Request for Continued Examination was filed on May 18, 2004. Therefore, the period of B Delay does not include the period from May 18, 2004 to February, 2, 2010, the date of issuance. In other words, B Delay is the 234-day period from September 27, 2003 until May 17, 2004.

Petitioner asserts overlap between A Delay and B Delay is 49 days and overlap between B Delay and C Delay is 1142 days. However, petitioner's determinations of overlap are based on the mistaken assumption B Delay includes the period from September 27, 2003 until February 2, 2010. The correct period of B Delay is from September 27, 2003 until May 17, 2004, which does not overlap with the period of A Delay or the period of C Delay.

In view of the prior discussion, the patent term adjustment is 1876 days which is the sum of 662 days of A Delay, 234 days of B Delay, and 1142 days of C Delay reduced by 162 days of Applicant Delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand eight hundred seventy-six (1876)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,657,064 B1
APPLICATION NO.	:	09/670,113
DATED	:	February 2, 2010
INVENTOR(S)	:	William Y. Conwell

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1642 days.

Delete the phrase "by 1642 days" and insert -- by 1876 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No.7

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MAY 2 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of:	)	
Horst	)	
Application No. 09/670,174	)	**DECISION ON REQUEST FOR**
Filed: September 25, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR CONFIGURING ADAPTIVE SETS OF LINKS BETWEEN ROUTERS IN A SYSTEM AREA NETWORK (SAN)	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

FM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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

GENERAL ELECTRIC COMPANY
ANDREW C HESS
GE AIRCRAFT ENGINES
ONE NEUMANN WAY M/D H17
CINCINNATI, OH 45215-6301

COPY MAILED

FEB 13 2003

OFFICE OF PETITIONS

In re Application of
Wheat et al.
Application No. 09/670,189
Filed: September 26, 2000
Attorney Docket No. 13DV-13658/11593

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 27, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 15, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 16, 2002. A Notice of Abandonment was mailed on October 25, 2002.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

It is not apparent whether the person signing the statement of unintentional delay was in a postition to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petition 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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

---

[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

The file is now being forwarded to Technology Center 1700.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: GREGORY GARMONG
P.O. BOX 12460
ZEPHYR COVE, NV 89448

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 16

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH, PA 15143

COPY MAILED

OCT 0 7 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cohen et al. :
Application No. 09/670,250 :
Filed: September 26, 2000 :
Attorney Docket No. YOR920000440US1(590.024) :

This is a decision on the petition under 37 CFR 1.137(a), filed September 25, 2003, 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(a) is **dismissed as moot**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2002, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on July 25, 2003.

Petitioner has provided a showing under 37 CFR 1.8(b) proving that an amendment and request for an extension of time were timely mailed on June 18, 2003, in compliance with 37 CFR 1.8. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 C.F.R. § 1.181, the petitioner's request to have the petition considered under 37 C.F.R. §1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 C.F.R. §1.181. Therefore, a petition fee has not been charged to petitioner's deposit account. The fee of $930 for the three month extension of time has been charged to the deposit account.

The file is being forwarded to Technology Center 2800.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6472768
Issue Date: October 29,2002
Application No. 09670296
Filed: September 26,2000
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 30,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2006. 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)
6472768	2002-10-29	09670296	2000-09-26	4196-1

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

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	//Darwin Aldis Salls//	Date (YYYY-MM-DD)	2006-12-30
Name	Darwin Aldis Salls		

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.

TDM

OIPE JC140
SEP 1 3 2004
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

December 9, 2002

DOCKETING DEPT.
JAN 1 0 2003
WILLIAMS, MORGAN & AMERSON

Terry D. Morgan
Williams, Morgan & Amerson
7676 Hillmont, Suite 250
Houston, TX 77040

In re application of:
Russell N. Mirov et al DECISION ON PETITION
Serial No.: 09/670,368
Filed: September 26, 2000
For: METHOD AND APPARATUS FOR
REDUCING POWER CONSUMPTION

This is a decision on the petition received on September 19,2002, 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 November 13, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 15, 2002. The notice of abandonment was mailed on August 14, 2002.

On September 19, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on January 2, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on January 2, 2001.

The petition is hereby GRANTED.

2070.000600

CHECKED BY:
1ST CHECK
2ND CHECK

The application has been completed for release to Technology Center 2185.

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

Katten, Muchin, Rosenman, LLP
575 Madison Avenue
New York, NY 10022-2585

COPY MAILED

JUL 16 2008

In re Application	:	
Takao Ogura et al.	:	
Application No. 09/670,462	:	DECISION ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. FUJS 17.791	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on January 15, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 16, 2008. A Notice of Abandonment was mailed on May 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Publication for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

MAILED
JUL 17 2001
Technology Center 2600

JOHN S FERRELL
CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO, CA 94303

In re Application of:
Brian L. Hinman, et al.
Application No.: 09/670,475
Filed: September 26, 2000
For: LOAD COIL AND DSL REPEATER INCLUDING SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 10, 2001, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

A grantable petition to make special in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

For the above stated reasons, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 56

JOHN S. FERRELL
CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAIL

APR 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Hinman et al.	:	
Application No. 09/670,475	:	DECISION ON REQUEST TO
Filed: September 26, 2000	:	WITHDRAW AS ATTORNEY
For: LOAD COIL AND DSL REPEATER	:	
INCLUDING SAME	:	

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent.
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: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

#4
2-24-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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MAIL

FEB 2 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195E
San Jose, California 95110

In re Application of: Ivy Pei-Shan Hsu, et al.	)	
Application No. 09/670,487	)	
Filed: September 26, 2000	)	**DECISION ON REQUEST FOR**
For: GLOBAL SERVER LOAD	)	**WITHDRAWAL AS ATTORNEY**
BALANCING	)	

This is a decision on the Request To Withdraw from Representation filed February 3, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Seth H. Ostrow, Esq.
Brown Raysman Millstein Felder
900 Third Avenue
New York, NY 10022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2/26/10

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/670487 Patent No.: 7454500B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Ario Etienne/ Digitally signed by /Ario Etienne/ DN: cn=/Ario Etienne/, c=US Date: 2010.03.18 16:25:32 -04'00'

2457

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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THE LAW OFFICE OF IDO TUCHMAN
69-60 108ST., SUITE 503
FOREST HILLS, NY 11375

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AUG 01 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hiroshi Maruyama, et al. :
Application No. 09/670,489 :
Filed: September 26, 2000 :
Attorney Docket No. JP920000016US1 :

This is a decision on the petition, filed July 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 April 5, 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 2178 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : August 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hiroshi Maruyama, et al.
Application No. : 09/670,489
Filed : September 26, 2000

The above-identified application has been assigned Patent No. 6,925,596 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

> "All reference to Patent No. 6,925,596 to HIROSHI MARUYAMA, ET AL. of JAPAN for DATA COMPRESSION APPARATUS, DATABASE SYSTEM, DATA COMMUNICATION SYSTEM, DATA COMPRESSION METHOD, STORAGE MEDIUM AND PROGRAM TRANSMISSION APPARATUS appearing in the Official Gazette of August 2, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 4

JOHN D. FERRELL
CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED

APR 03 2003

Technology Center 2600

In re Application of	:	
Ting Sun	:	
Application No. 09/670,490	:	DECISION ON REQUEST TO
Filed: September 26, 2000	:	WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR	:	
ADAPTIVELY ACCOMMODATING A HIGH	:	
AMPLITUDE DOWNSTREAM SIGNAL IN A		
DSL MODEM		

This is a decision on the request to withdraw as attorney/agent of record filed on March 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 12

HITT GAINES & BOISBRUN, P.C.
P. O. BOX 832570
RICHARDSON, TX 75083

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MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Douglas L. Peckover	:	
Application No. 09/670,514	:	ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. DMND-0005C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 10, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 12, 2001.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3600, Art Unit 3625 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of
Yannick Albertone, Mark Andrew Young, Jacques Gilbert, and George J. Ostapchenko
Application No. 09/570,529
Filed: September 27, 2000
Attorney Docket No. AD6649 US NA
Title: : LAMINATE STRUCTURE

DECISION ON PETITION

This is a decision on the petitions filed on March 25, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 17, 2002, which set a shortened statutory period for reply of three (3) months. On January 21, 2003, an amendment was received, along with a three-month extension of time under the provisions of 37 C.F.R. §1.136(a). Unfortunately, this extension of time was insufficient2, and the above-identified application became abandoned on January 18, 2003. On February 3, 2003, 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.

2 The three-month extension of time extended the period for response through January 17, 2003. The amendment did not contain a certificate of mailing.

With the instant petition, the petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, has paid the petition fee, and has made the proper statement of unintentional delay.

Petitioner has also filed a Request for Continued Examination (RCE), and filed the fee associated with the filing of an RCE.

37 C.F.R. §1.114(a) clearly states that a request for continued examination may be made only if prosecution in an application is closed. As prosecution is still open, the filing of an RCE is improper. The RCE has not been entered, and the fee associated with this filing has been refunded to applicant's deposit account.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for processing of the amendment filed with the instant petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of
Woolston
Application No. 09/670,562
Filed: September 27, 2000
Attorney Dck't. No. 13466-002005

: DECISION ON PETITION

This is a decision on the petition filed June 22, 2005, which is being treated as a petition under 37 CFR 1.59 requesting that the communication filed by a third party on April 22, 2005, be expunged from the record.

The petition under 37 CFR 1.59 is **dismissed**.

BACKGROUND

Inspection of the above-identified non provisional application reveals that it was filed before November 29, 2000, and, as such, was not subject to a pre-grant publication. That inspection further reveals that a Notice of Allowance has not been mailed.

On April 22, 2005, a communication filed on behalf of a third party (eBay) was received. The communication specifically identified on the top page in a conspicuous location, the instant application number in the manner required by 37 CFR 1.5(a). While self-styled as a petition under 37 CFR 1.182, the communication requested that the USPTO take notice of its prior findings alleged to have been arrived at during the course of prosecution of 18 related (common inventorship) patent applications, and that the USPTO apply these findings consistently in the examination of the instant non provisional application. These findings are discussed in conjunction with, *inter alia*, at least 2 specifically mentioned U.S. Patents, several prior art articles, and assertions as to what the USPTO has held to be well known in the art during the examination of prior applications to the instant inventor.

OPINION

The instant petition notes that eBay is an adjudicated willful infringer of several MercExchange (the real party of interest herein) patents and contends that the eBay communication, characterized as 53 pages of "adversarial argument", is an "improper attempt" to participate in the *ex parte* prosecution of the instant non provisional application, requests that the USPTO deny eBay's request that the Office "take notice" of eBay's arguments, and further, requests that the Office expunge the eBay communication.

37 CFR 1.59 provides for the applicant's request for expungement of information in a patent application, other than the original papers upon which the filing date was granted. However, under the terms of the rule, petitioner "must ...establish to the satisfaction of the Director that the expungement of the information is appropriate..." See 37 CFR 1.59(b). Under the circumstances of this case, petitioner has not met his burden of proof.

Expungement of an Office communication would only be justified where that Office communication contained inappropriate statements that were not suitable for retention in the administrative record. Cf. 37 CFR 1.3, which requires that applicants must conduct their business with the USPTO with decorum and courtesy. While petitioner may disagree with the contents of the contested eBay communication, the USPTO has long held that a mere difference in opinion does not warrant expungement of part or all of a contested communication

from the file record. See *e.g.*, Ex Parte Fox, 1910 Dec. Commissioner Pat. 123 (Comm'r Pat. 1910). The MPEP makes clear that the expungement of record information should occur in very limited situations. See MPEP § 724.05. That particular section of the MPEP and referenced-sections (e.g., *MPEP § 724.02*) address the following types of information as subject (or susceptible) to possible expungement:

1) trade secret information;
2) proprietary information;
3) protective order material;
4) unintentionally-submitted information; and
5) information submitted in a wrong application.

The above situations are the only known types of circumstances which have led to USPTO-information expungement. Clearly none of them applies here. Petitioner has not alleged that the information includes any trade secret, is proprietary in nature or is subject to a protective order. Neither was the information wrongly-submitted. Accordingly, no recognized basis for expunging information applies to this case and the USPTO sees no reason to exercise its discretion to deviate from, or expand upon, the above-established bases. See, e.g., Saxbe v. Bustos, 419 U.S. 65, 74 (1974) (acknowledging an agency's right to maintain a "longstanding administrative construction").

Indeed, while the petition contends (at 7, n.3) that the specific, limited provisions of 37 CFR 1.291 do not apply in this instance, inspection of the record does not reveal, and petitioner fails to advance, any persuasive showing that even assuming for the sake of argument the eBay communication is a noncompliant protest within the meaning of 37 CFR 1.291, § 1.291 or indeed, any other regulation, compels the expungement of the eBay communication under 37 CFR 1.59 without the opportunity for USPTO consideration of the information therein

Petitioner appears to overlook the fact that the eBay communication, notwithstanding its self-styling as a "petition", clearly constitutes a protest to the issuance of a patent to the above-identified application. That is, the communication specifically *identifies*, inter alia, prior patents, other publications, and other information, which the submitter requests be considered by the USPTO during the prosecution of the instant application.

37 CFR 1.291(a) provides in pertinent part that "a protest will be matched with the application file if it adequately identifies the patent application." As the eBay communication conspicuously and clearly identifies the instant application, it was readily matched with this application. 37 CFR 1.291(b) further states that a protest will be entered into the file if: (1) as here, the protest indicates service on the applicant as required by 37 CFR 1.248, (2) as here, the protest was filed prior to the earlier of the date the application was published or a notice of allowance under 37 CFR 1.311 was mailed, and (3) the protest complies with paragraph (c) of that regulation. Thus, the eBay protest facially meets the service and timeliness requirements of 37 CFR 1.291(b). If the eBay protest further meets the requirements of 37 CFR 1.291(c), then the rule accords an entry right to the eBay communication and further, states that the eBay protest will be considered by the examiner.

However, the rule does not likewise require the converse, that is: entry must be denied, and that the examiner will not consider the eBay protest, if either or both of sections (b) and (c) are not complied with by a given protest. See 37 CFR 1.291(g). Rather, even where a protest is entirely noncompliant (and it is not herein so decided), the treatment accorded that protest is discretionary with the USPTO per 69 *Fed. Reg.* 56482 at 56527 (Sept. 21, 2004):

> Where a protest is entirely noncompliant with §§ 1.291(b), or (c), the prior art will not be made of record and the protest may be returned, or discarded, at the Office's option. Alternatively, the examiner may choose to consider any or all of the prior art submitted, in which case the examiner may choose to make certain of the prior art considered of record by citing it as an examiner's citation of prior art. The examiner need not make any prior art actually considered from a noncompliant § 1.291 protest of record.
>
> ***The examiner may always look at, or consider any documents submitted in an application, under amended § 1.291. This is the same as in the past... Once a protest has been matched with an application the examiner is always free to look at, or consider, any document(s) or other information submitted in that protest whether or not the protest complies with 37 CFR 1.291*** (emphasis added).

Accordingly, it is not here necessary to consider, on petition, whether the eBay protest is fully or partially compliant, or entirely noncompliant, as to whether that communication should now be properly expunged *vel non*. Rather, what initiates the discretionary USPTO treatment of even a noncompliant protest is the matching of the protest with the intended file.[1]

Thus, as to whether the matched eBay protest is fully or partially compliant, and as to whether that protest, fully compliant or otherwise, will be considered and, if so, to what extent, is a matter(s) decided by the examiner. As such, the examiner's discretionary freedom in this matter should not be permitted to be curtailed–much less pre-empted–by way of a petition to expunge. Rather, 37 CFR 1.291 specifically provides for the consideration *vel non* and entry *vel non* of the eBAy communication, and further, indicates that the issue of retention of the protest in the file is independent from the issue of consideration of the information provided in and by the protest. This conclusion is reinforced by consideration of the continuation of the above-quoted paragraph, id.:

> Section 1.291 exists as a matter of administrative convenience for the Office; thus, a third party's failure to comply with any of the requirements of § 1.291 does not vest the applicant with any "right" to preclude consideration by the examiner of the information set forth/presented in a non-compliant protest. The noncompliant protest, however, will not be made of record and may be returned, or discarded (§ 1.291(g)) after consideration of the information contained therein, should the examiner desire to do so.

Thus even assuming for the sake of argument that the least favorable condition is present herein–that the protest is fully noncompliant, petitioner still does not have a vested right, in the first instance, to seek to preclude by way of a petition under 37 CFR 1.59, the examiner's possible consideration of the information contained in the eBay protest.

The further assertion that the eBay communication is an improper attempt to participate in the *ex parte* prosecution of the above-identified application, is simply not well taken. See 37 CFR 1.291(d). That is, the regulation has long expressly limited protestor participation to the filing of the protest and such involvement ends with the filing of the protest. See 47 *Fed. Reg.* 21746, 21749-50 (May 19, 1982).; see also In re Blaese, 19 USPQ2d 1232, 1235 (Comm'r Pat. 1991)
.

DECISION

For the reasons given above, the petition under 37 CFR 1.59 to expunge the eBay protest of April 22, 2005, is **dismissed.** Rather, the Office treatment of the eBay communication is more properly governed by the provisions of 37 CFR 1.291.

The balance owed of the $200 petition fee has been charged to counsel's deposit account.

The above-identified application is being referred to the Technology Center.

The examiner is advised that he is to determine whether the eBay communication complies with 37 CFR §§ 1.291(b) and (c) or not, and that he may take such action under 37 CFR 1.291 regarding that communication consistent with his determination, as he chooses.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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[1] Since the instant non-provisional application was not published, the more stringent conditions of 37 CFR 1.99 and 1.291 pertaining to the content of protests in an already published application do not apply. Likewise, as the instant application is not a reexamination proceeding, the prohibitions of 37 CFR 1.535 are also immaterial here.

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(Petitioner)

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OFFICE OF PETITIONS

Access Petition for in re application :
Thomas G. Woolston :
Application No. 09/670,562 :
Filed: September 27, 2000 :
Attorney Docket No. 13466-002005 :
Title: METHOD FOR FACILITATING COMMERCE AT AN INTERNET-BASED AUCTION

DISMISSAL
37 CFR § 1.14(i) PETITION
FOR ACCESS

INTRODUCTION

This is a decision on a January 11, 2007 third party petition entitled "PETITION FOR ACCESS OR COPIES PURSUANT TO 37 CFR § 1.14(h)" and a February 2, 2007 applicant opposition entitled "PATENT OWNER'S OPPOSITION TO THIRD PARTY REQUESTOR'S PETITION FOR ACCESS OR COPIES PURSUANT TO 37 CFR § 1.14(h)."

The petition is before the Office of Patent Legal Administration for consideration.

The petition is **DISMISSED** for the reasons set forth below.

FACTS

1. On April 26, 1995, Thomas G. Woolston (applicant) filed patent application 08/427,820 (the '820 application).

2. On November 7, 1995, applicant filed patent application 08/554,704 (the '704 application) with a benefit claim to the '820 application under 35 USC § 120 as a continuation-in-part application.

3. On October 6, 1998, applicant filed patent application 09/166,779 (the '779 application) with a benefit claim to the '820 application through the '704 application under 35 USC § 120 as a continuation application.

4. On December 1, 1998, the '704 application was issued by the Office as US Patent 5,845,265 (the '265 patent).

5. On February 19, 1999, applicant filed patent application 09/253,021 (the '021 application) with a benefit claim to the '820 application through the 09/166,779 application as a divisional application under 35 USC § 121 and through the '704 application.

6. Also on February 19, 1999, applicant filed patent application 09/253,014 (the '014 application) with a benefit claim to the '820 application through the 09/166,779 application as a divisional application under 35 USC § 121 and through the '704 application.

7. On March 8, 1999, applicant filed patent application 09/264,573 (the '573 application) with a benefit claim to the '820 application through the 09/166,779 application as a continuing application under 35 USC § 120 and through the '704 application.

8. On July 4, 2000, the '573 application was issued by the Office as US Patent 6,085,176 (the '176 patent).

9. On September 27, 2000, applicant filed patent application 09/670,562 (the '562 application) with a benefit claim to the '820 application through the '704 application under 35 USC § 120 as a continuation application and through divisional applications '014 and '779.

10. On March 13, 2001, the '021 application was issued by the Office as US Patent 6,202,051 (the '051 patent).

11. On September 26, 2001, the MercExchange, the assignee of applicant's patents, filed suit against eBay, the petitioner in the instant decision, *inter alia,* for infringement of the '051, the '176 and the '265 patents. *See MercExchange, L.L.C. v. eBay Inc.,* No. 2:01-736 (E.D. Va.)

12. On November 22, 2004 the Office issued a notice of abandonment in the '820 application.

13. On January 11, 2007, petitioner submitted a petition for access under 37 CFR 1.14(i) requesting access to the '562 application on the basis of "special circumstances."

14. On August 2, 2007, petitioner submitted a status inquiry regarding a decision on their request for access. In the status inquiry petitioner asserted that applicant on February 2, 2007 had filed an opposition to the petition for access.

15. On February 4, 2008, in response to an Office inquiry regarding the existence of a February 2, 2007 opposition submission, applicant provided copies of the February 2, 2007 opposition submission, along with a post card receipt showing proof of submission on February 2, 2007.

RELEVANT LAW

35 USC § 122(a) states:

> (a) CONFIDENTIALITY.- Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without

authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

37 CFR § 1.14(a) states (in part):

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C. 122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

(1) Records associated with patent applications (see paragraph (g) for international applications) may be available in the following situations: . . . .

(v) *Unpublished pending applications (including provisional applications) whose benefit is claimed.* A copy of the file contents of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the benefit of the application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)). ***The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.***

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). ***The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.***

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), ***are not available to the public.*** If an application is identified in the file contents of another application, but not the published patent application or patent itself, ***a granted petition for access (see paragraph (i)) or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.***

37 CFR § 1.14 (c) states:

(c) *Power to inspect a pending or abandoned application.* Access to an application may be provided to any person if the application file is available, and the application contains written authority (*e.g.*, a power to inspect) granting access to such person. The written authority must be signed by:

(1) An applicant;

(2) An attorney or agent of record;

(3) An authorized official of an assignee of record (made of record pursuant to § 3.71 of this chapter); or

(4) A registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

37 CFR § 1.14 (i) states:

(i) *Access or copies in other circumstances.* The Office, either *sua sponte* or on petition, may also provide access or copies of all or part of an application if necessary to carry out an Act of Congress or if warranted by other special circumstances. Any petition by a member of the public seeking access to, or copies of, all or

part of any pending or abandoned application preserved in confidence pursuant to paragraph (a) of this section, or any related papers, must include:

(1) The fee set forth in § 1.17(g); and

(2) A showing that access to the application is necessary to carry out an Act of Congress or that ***special circumstances exist which warrant petitioner being granted access to all or part of the application.***

MPEP 103 (V) states (in part):

The petition may be filed either with proof of service of copy upon the applicant, assignee of record, or attorney or agent of record in the application to which access is sought, or the petition may be filed in duplicate, in which case the duplicate copy will be sent by the Office to the applicant, assignee of record, or attorney or agent of record in the application (hereinafter "applicant"). A separate petition, with fee, must be filed for each application file to which access is desired. Each petition should show not only why access is desired, but also why petitioner believes he or she is entitled to access. The applicant will normally be given a limited period such as 3 weeks within which to state any objection to the granting of the petition for access and reasons why it should by denied. If applicant states that he or she has no objection to the requested access, the petition will be granted. If objection is raised or applicant does not respond, the petition will be decided on the record. If access is granted to the application, any objections filed by the applicant will be available to the petitioner since these papers are in the application file. If access to the application is denied, petitioner will not receive copies of any objections filed by the applicant. A determination will be made whether "special circumstances" are present which warrant a grant of access under 35 U.S.C. 122. See below when the application is the basis of a claim for benefit of an earlier filing date under 35 U.S.C. 120 or part of the application is incorporated by reference in a United States patent. ***"Special circumstances" could be found where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers.*** See *In re Crossman,* 187 USPQ 367 (PTO Solicitor 1975); *In re Trimless Cabinets*, 128 USPQ 95 (Comm'r Pat. 1960); and *Ex parte Bonnie-B Co.*, 1923 C.D. 42, 313 O.G. 453 (Comm'r Pat. 1922). Furthermore, "special circumstances" could be found where an attorney or agent of record in an application in which a provisional double patenting rejection is made does not have power of attorney in the copending application having a common assignee or inventor. However, a more expeditious means of obtaining access would be to obtain power to inspect from an assignee or inventor. See MPEP § 104 and § 106.01. [Emphasis added]

PETITION

A petition for access under 37 CFR § 1.14(h), now (i), was filed by Mr. Jay B. Monahan on behalf of eBay, Inc., for access to the above-identified application on January 11, 2007, with proof of service upon applicants.

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 USC § 122. See Manual of Patent Examination Procedure (MPEP), Section 103. The use of such application to interfere with the business of others may be such special circumstances. *Ex parte Bonnie-B Co., Inc.*, 1923 C.D. 42; *In re Application for Trimless Cabinets*, 128 USPQ 95 (Comm'r Pats. 1960); and *In re Crossman, Kenrick and LeMieux*, 187 USPQ 367 (PTO Sol. 1975).

Petitioner states that access should be granted to the above-identified application, based upon two separate grounds, both of which are asserted as being "special circumstances." Petitioner asserts that: (1) access is warranted because any trade secrets contained in the '562 application have already been published (petition, pages 5-8) and, if not, the Office can employ protective measures to prevent the disclosure of any trade secret, proprietary, or protective order materials in the '562 application (petition, pages 11-13); and (2) access is warranted because MercExchange is using its applications to interfere with petitioner's business and customers (petition, pages 8-11).

OPPOSITION

An opposition filed by applicant on February 2, 2007 asserts that petitioner's position regarding the existence of special circumstances is without merit. Specifically, applicant notes that eBay has failed to demonstrate that MercExchange has made threats based upon the '562 application to interfere with eBay's business and customers or any other "special circumstances." Additionally, applicant has asserted the existence of a protective order, which is supported by attachment #1 submitted with the opposition. Finally, applicant asserts that petitioner's request for access exceeds the scope of the protective order.

DECISION

MPEP 103 (V) notes that special circumstances have been found if an applicant used their application to interfere with a competitor's business or customers.

Lacking Trade Secrets Basis for Access

Regarding the first grounds, petitioner asserts access should be granted because the written description of the '562 application has already been published by dint of issued US Patent No. 5,845,265. The '562 application claims benefit to the '265 patent and both claim benefit to application 08/427,820, i.e. the ultimate original application. As the '562 application is not identified as a continuation-in-part application, it should be identical to the common disclosure of the '820 application, which is open to the public based on the '265 patent's benefit claim to the '820 application.

The mere existence of a published patent or application in a series of benefit claims in an application is not a fact that is viewed as constituting "special circumstances" for granting access to an application that is not available to the public. See MPEP 103(V). The fact that the '562 application can no longer contain trade secret material is not a basis upon which access is granted under special circumstances. Applicant of the '562 application is entitled to the confidentiality afforded by 35 USC § 122 and 37 CFR § 1.14 unless petitioner can show special circumstances that warrant stripping away the statutory right to confidentiality, which is further supported by the rule. Petitioner's reliance on an alleged lack of any remaining trade secret information in the '562 application is an insufficient basis upon which to grant petitioner, as a member of the public, access to the '562 application, in light of the statutory mandate of confidentiality established by Congress under 35 USC § 122(a). Therefore, regardless of the lack of trade secrets in the '562 application, the public does not have a right to preview the claims in a pending, unpublished application.

A previous version of 37 CFR § 1.14, effective December 1, 1997, did permit access by the public to abandoned applications, which claimed benefit to an application that was open to public inspection. Access was permitted to abandoned applications that, by way of a 35 USC § 120 benefit claim, were child applications of an application open to public inspection. [1,2]

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[1] See 37 CFR 1.14(e)(2)(i) or (ii):

> Public access to a pending or abandoned application. Access to an application may be provided to any person if a written request for access is submitted, the application file is available, and any of the following apply:
> * * * * *

However, even under that version of the rule, pending applications, such as the '562 application, were expressly excluded from this possibility of access.[3] 37 CFR § 1.14 has since been further amended, eliminating public access to even abandoned child applications of patent applications which are open to the public.[4] Therefore, by operation of 37 CFR § 1.14 the '562 application retains a statutory right of confidentiality as outlined in 35 USC §122(a), regardless of the fact that published patent '265 exists in the '562 application's benefit claims.

Interference with Business and Customers Basis for Access

Regarding the second grounds, petitioner alleges that applicant is using a family of issued patents and patent applications, of which the '562 patent application is a member, to interfere with petitioner's businesses and customers. The petition also includes several exhibits which contain a copy of a Patent Enforcement Agreement, excerpts of a Motion in Limine memoranda, transcripts from related trial court litigation proceedings, news articles discussing related litigation, and a 37 CFR § 1.132 declaration made by Mr. Woolston in a related patent examination proceeding, the '820 application.

The reliance by an applicant upon a pending application to interfere with the business and customers of a competitor may constitute a "special circumstance" to justify access to a pending, unpublished application. Petitioner, however, has not established such a case of special circumstances.

Petitioner is asserting that applicant is using an entire patent and patent application family to interfere with petitioner's business and customers. (Petition at page 10, lines 1-2). Petitioner does not focus on how the '562 application is being used to interfere with petitioner's business and customers. Petitioner states, "MercExchange has nonetheless attempted for years to use [the] '562 application and its family to interfere with eBay's business and customers." (Petition at page 8, lines 16-18). Thereafter, petitioner focuses on evidence and arguments related to the broad assertion that the '562 application's patent family was used against petitioner, namely the issued patents. Additionally, petitioner makes an oblique assertion that by enforcing issued patents, which are related to the '562 application, an applicant thereby is using the '562 application to interfere with petitioner's business and customers. Petitioner states that MercExchange is interfering with petitioner's business by asserting in court three issued patents against petitioner, the '176 patent, the '051 patent and the '265 patent, which are all in the '562 application's family. (Petition at page 10, lines 1-7). Filing a civil action for patent infringement in the federal courts, however, is one course of action a patent owner may legitimately take against an alleged infringer in order to protect the property rights of their patent grant.

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(2) The application is abandoned, it is not within the file jacket of a pending application under § 1.53(d), and it is referred to:
(i) In a U.S. patent; or
(ii) In another U.S. application which is open to public inspection either pursuant to § 1.11(b) or paragraph (e)(2)(i) of this section.

62 Fed. Reg. 53131, 53182 October 10, 1997, effective December 1, 1997.

[2] See Changes to PTO Practice and Procedure – Final Rule Questions and Answers Effective Date: December 1, 1997, Question 85, answer subsection 3. Copy attached to this decision.

[3] *Id.*

[4] 37 CFR 1.14(a)(1)(iv) and (v)

Petitioner does not provide any direct evidence to support their assertion that applicant used the '562 application to interfere with petitioner's business and customers. Instead, petitioner provides exhibits that support the fact that the applicant of the '562 application is only using issued patents against petitioner, which just so happen to be related to the '562 application. None of the exhibits provided support that applicant is using the '562 application to interfere with petitioner's business and customers.

Petitioner's only direct argument relating to the '562 application, not withstanding the alleged attempt by applicant for years to interfere with petitioner's business and customers, is a statement that "MercExchange represented to the media that its pending patent applications were a strategic threat to eBay and its customers." (Petition at page 10, lines 12-13) The argument is alleged to be supported by Exhibit K (Anitha Reddy, *Ruling Prompts EBay To Revise Earnings,* Wash. Post, Aug. 12, 2003 at E05). Petitioner quoted the article's closing paragraph "Woolston also said that he is confident MercExchange will eventually be able to sue eBay for infringing a patent related to online auction technology." The entire article, to include the quote noted by petitioner, is devoid of any citation to the '562 application in any way, nor is it clear that the reference to "online auction technology" was intended to refer to the '562 application or any other application then pending. Therefore, based upon the evidentiary submission by petitioner of the August 12, 2003 Washington Post article, the '562 application appears not to have been used in a threatening manner against petitioner's business and its customers.

In regards to MercExchange's enforcement agreement with Aden Enterprises, Inc., the agreement is devoid of any agreement to use the '562 application in a threatening manner against eBay and its customers. The agreement does note that MercExchange and Aden are to cooperate in patent infringement actions against eBay; however the agreement limits such legal actions to issued patents or granted patent applications. Therefore, the agreement does not include the initiation of any legal action against eBay wherein a currently pending application will be used as the basis of any suit, *e.g.,* the '562 application.

Finally, in regard to the 37 CFR § 1.132 declaration executed by Mr. Woolston and submitted to the Office in the '820 application, the declaration is devoid of any threats or assertions that the '562 application was to be used in a threatening manner against eBay and its customers.

In the absence of direct evidence to the contrary, applicant's actions in regard to the '562 application appear not to have exceeded the bounds of propriety or amount to anything more than what applicant has a right to do with their issued patents that are related to the '562 application. Therefore, without a proper showing of special circumstances the petition cannot be granted.

Litigation

When a matter is in litigation, the Office generally defers to the court's discretion as to whether or not and under what conditions one litigant should have access to another litigant's pending applications, not withstanding any special circumstances.

The petition is **DISMISSED.**

CONCLUSION

1. Petitioner's request for access to application 09/670,562 is DISMISSED.

2. Inquiries relating to this matter may be directed to Joseph F. Weiss, Jr., Legal Advisor, at (571) 272-7759.

HIRAM BERNSTEIN
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Encl.
Changes to PTO Practice and Procedure –
Final Rule Questions and Answers Effective Date:
December 1, 1997, Question 85, answer subsection 3.

CHANGES TO PTO PRACTICE AND PROCEDURE - FINAL RULE
QUESTIONS AND ANSWERS
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IX. Petitions to Revive an Abandoned Application - 37 C.F.R. § 1.137 (Q138-140) 38

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filed after the effective date of the rule?

Answer: No. The changes to the rules with respect to deceptive intent will apply not only to applications filed after the effective date of the rule, but also to earlier-filed applications that are pending on the effective date of the rule. (See "Reissue Practice" Section for a question relating to the sufficiency of a reissue oath or declaration.)

III. CONFIDENTIALITY OF APPLICATIONS - 37 C.F.R. § 1.14

(Q85) Which *abandoned* applications may be released to the public without a power to inspect or a granted petition for access?

Answer: An abandoned application that is in the file jacket of a pending application under 37 C.F.R. § 1.53(d) (*i.e.*, a CPA) may *not* be released to a requester without a power to inspect or a granted petition for access, unless the requester is the applicant or assignee. *Abandoned* applications (other than those inside a CPA) which may be released to the public are as follows:

1. abandoned applications which are referred to in the text of a U.S. patent;
2. abandoned applications which are referred to in an application (either in the prosecution history or in the text of the application) that is open to public inspection (for example, a patent file, a reissue, an abandoned application that claims priority under 35 U.S.C. § 120 to an application that has issued as a patent, an abandoned application that is referred to in the text of a patent or in an application that is open to public inspection);
3. abandoned applications which claim the benefit of an application that is open to public inspection - that is, one that claims § 120 priority to, or is a child application of, an application that is open to public inspection (the PALM 2962 transaction can be used to determine continuity data); or
4. abandoned applications which have been laid open by the applicant.

(Q86) If an application is referred to in the text of a patent, can access to the application be given to a member of the public who is not the applicant?

Answer: Maybe. If the application is *pending*, then the pending application should *not* be released without a petition decision granting access to the member of the public or a power to inspect. If the application is *abandoned*, then 37 C.F.R. § 1.14(a)(3)(iv)(A) permits the member of the public to obtain access to or copies of the abandoned application, except if it is in the file of a CPA.

(Q87) What if the *pending* application is incorporated by reference in the patent?

Answer: As long as the application is *pending*, then the pending application file should *not* be released without a petition decision granting access to the member of the public or a power to inspect. However, 37 C.F.R. § 1.14(a)(2) provides that a member of the

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Thomas G. Woolston	: DECISION ON REQUEST FOR
Patent Number	: 7613633	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/670,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **868** 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.

APR 1 8 2002

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Sughrue, Mion, Zinn, Macpeak & Seas, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

In re Application of IKAWA et al	:	
U.S. Application No.: 09/670,568	:	
Int. Application No.: PCT/JP99/01512	:	DECISION
Int. Filing Date: 24 March 1999	:	
Priority Date: 27 March 1998	:	
Attorney Docket No.: Q61014	:	
For: HUMAN p51 GENES AND GENE	:	
PRODUCTS THEREOF	:	

This is in response to applicant's "Request for Corrected Official Filing Receipt" filed 11 December 2001.

BACKGROUND

On 24 March 1999, applicant filed international application PCT/JP99/01512, which claimed priority of an earlier Japan application filed 27 March 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 07 October 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 August 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 27 September 2000.

On 27 September 2000, applicant filed national stage papers in the United States. The submission was accompanied by, *inter alia*, a cover letter and the basic national fee required under 35 U.S.C. 371.

On 20 November 2000, the USPTO mailed a Notice to File Missing Parts of Nonprovisional Application, which indicated that an oath or declaration and late filing fee must be submitted.

On 18 January 2001, applicant filed an executed declaration.

On 26 January 2001, the USPTO mailed a Filing Receipt which did not reference the present international application number PCT/JP99/01512.

On 11 December 2001, applicant filed the present request for correction of the Filing Receipt to include data pertaining to international application number PCT/JP99/01512.

DISCUSSION

A review of the present application file reveals that U.S. Application No.09/670,568 has been treated as an application filed under 35 U.S.C. 111(a) rather than a U.S. national stage application filed under 35 U.S.C. 371.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application.

In the present case, the 27 September 2000 cover letter clearly indicates that applicant intended to file a national stage application under 35 U.S.C. 371. Specifically, the cover letter states, "The following documents and fees are submitted herewith in connection with the above application for the purpose of entering the National stage under 35 U.S.C. § 371 and in accordance with Chapter II of the Patent Cooperation Treaty." Additionally, the cover letter refers to International Application Number PCT/JP99/01512 and the International Filing Date of 24 March 1999.

Despite these indications, the application was treated as a filing under 35 U.S.C. 111(a). The filing status of this application will be corrected to a national stage application submitted under 35 U.S.C. 371.

Applicant is urged to use the "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) as the transmittal letter when submitting papers under 35 U.S.C. 371 for entry into the national stage in the United States.

CONCLUSION

For the reasons above, the present request is GRANTED.

The Notice to File Missing Parts of Nonprovisional Application mailed 20 November 2000 and the Filing Receipt mailed 26 January 2001 are hereby VACATED.

The application has an International Filing Date of 24 March 1999 under 35 U.S.C. 363 and a date under 35 U.S.C. 371 of 18 January 2001.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision including the issuance of a corrected filing receipt. The application will thereafter be returned to the appropriate examining group.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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JJGJR.: 08-05

Paper No: 11

C. EMMETT PUGH
PUGH/ASSOCIATES
PATENT & TRADEMARK ATTORNEYS
82 N MAIN STREET
SUFFIELD CT 06078-2102

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OFFICE OF PETITIONS

In re Application of	:	
Williams, et al.	:	
Application No. 09/670,606	:	DECISION
Filing Date: 26 September, 2000	:	
Attorney Docket No. WillD01/870	:	

This is a decision on the petition filed on 31 March, 2004, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **GRANTED**, and, as authorized, the petition fee is charged to Deposit Account 16-2605.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 2 December, 2002, with reply due absent extension of time on or before Monday, 3 March, 2003;

- the Application went abandoned after midnight 2 March, 2003;

- the Office mailed a Notice of Abandonment on 18 June, 2003;
- with the petition (and fee) submitted on 10 March, 2004, Petitioner filed an after-final amendment, for which the Examiner has indicated authorization to enter, and Petitioner has made the statement of unintentional delay.

Thus, Petitioner appears to have satisfied the requirements of 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).[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

---

[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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The record (including the petitions filed on 10 March, 2004) does not necessitate a finding that the delay between midnight 2 March, 2003 (date of abandonment), and 10 March, 2004 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner's Counsel C. Emmett Pugh (Reg. No. 22,826) when accepting Petitioner's representation that the delay in filing the response was unintentional.[7]

The petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Technology Center 3600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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APR 2 2 2008

OFFICE OF PETITIONS

In re Application of
Jer-Chen Kuo, et al.
Application No. 09/670,630
Filed: September 27, 2000
Attorney Docket No. A0638.019

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 15, 2008..

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 10, 2007. A Notice of Abandonment was mailed on January 8, 2008. On January 15, 2008, the present petition was filed. It is noted that the requisite issue fee was paid on February 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

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Paper No. 6

CHARLES M. LEEDOM, JR.
NIXON PEABODY LLP
8180 GREENSBORO DRIVE, SUITE 800
MCLEAN, VIRGINIA 22102

MAIL

DEC 14 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Joseph B. Sainton
Application No. 09/670,696
Filed: September 28, 2000
For: ADAPTIVE OMNI-MODAL RADIO APPARATUS AND METHODS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed Nov. 21, 2001, to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

Attn: Ennis Young
South Tower
Room 922

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-04

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/670735 Patent No.: 7022107

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.

Check Drawings

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Young

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: _____

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER
SPE

6/9/08
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper 5

JOHN W. OGILVIE
COMPUTER LAW
1211 EAST YALE AVE
SALT LAKE CITY, UT 84105

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Mellmer, et al
Application No. 09/670,783
Filed: 27 September, 2000
Attorney Docket No.: 1909.2.74A

ON PETITION

This is in response to the petition under 37 C.F.R. §1.47,[1] specifically §1.47(a), filed 14 November, 2000.[2]

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor cannot be found or otherwise 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 C.F.R. §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 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

---

[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] A prior petition, filed on 10 May, 1999 (and again on 24 August, 2000), was dismissed on 18 September, 2000, when Petitioner failed to submitted a Declaration/Oath of the co-inventors on behalf of themselves and the missing inventor.

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Paper 6

MAR 1 2 2001

OFFICE OF PETITIONS
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ROBERT MICHAEL SHERIDAN
11904 PROFFITT ESTATES CT.
OAK HILL, VA 20171

In re Application of
Mellmer, et al.
Application No. 09/670,783
Filed: 27 September, 2000
Attorney Docket No.: 1909.2.74A
For: Managing Digital Identity Information

LETTER

Dear Robert Michael Sheridan:

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),[1] and 37 C.F.R. §1.47(a), Rules of Practice in Patent Cases.[2]

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 C.F.R. §1.19[3]) or make

---

[1] The statute, 35 U.S.C. §116, provides in pertinent part:

35 U.S.C. §116 Inventors.

* * *

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 and the omitted inventor. The Commissioner, on proof of the pertinent facts and after such notice to the omitted inventor as he prescribes, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

* * *

[Amended Aug. 27, 1982, Public Law 97-247, sec 6(a), 96 Stat. 320; Nov. 8, 1984, Public Law 98-622, sec. 104(a), 98 Stat. 3384]

[2] 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]

[3] The regulations at 37 C.F.R. §1.19 provide:

§1.19 Document supply fees.

The Patent and Trademark Office will supply copies of the following documents upon payment of the fees indicated:

(a)Uncertified copies of patents:

(1)Printed copy of a patent, including a design patent, statutory invention registration, or defensive publication document, except plant

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.[4]

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or statutory invention registration containing color drawing:
(i) Regular service 3.00
(ii) Overnight delivery to PTO Box or overnight fax 6.00
(iii) Expedited service for copy ordered by expedited mail or fax delivery service and delivered to the customer within two workdays 25.00
(2) Printed copy of a plant patent in color 15.00
(3) Copy of a utility patent or statutory invention registration containing color drawing (see § 1.84(a)(2)) 25.00
(b)Certified and uncertified copies of Office documents:
(1)Certified or uncertified copy of patent application as filed:
(i) Regular service 15.00
(ii) Expedited regular service 30.00
(2) Certified or uncertified copy of patent-related file wrapper and contents 150.00
(3) Certified or uncertified copy of Office records, per document except as otherwise provided in this section 25.00
(4) For assignment records, abstract of title and certification, per patent 25.00
(c) Library service (35 U.S.C. 13): For providing to libraries copies of all patents issued annually, per annum 50.00
(d) For list of all United States patents and statutory invention registrations in a subclass 3.00
(e) Uncertified statement as to status of the payment of maintenance fees due on a patent or expiration of a patent 10.00
(f) Uncertified copy of a non-United States patent document, per document 25.00
(g) To compare and certify copies made Fed. Reg. om Patent and Trademark Office records but not prepared by the Patent and Trademark Office, per copy of document . . 25.00
(h)Additional filing receipts; duplicate; or corrected.
[Added 47 Fed. Reg. 41273, Sept. 17, 1982, effective date Oct. 1, 1982; para. (b), 49 Fed. Reg. 552, Jan. 4, 1984, effective date Apr. 1, 1984; paras. (f) and (g) Added, 49 Fed. Reg. 34724, Aug. 31, 1984, effective date Nov. 1, 1984; paras. (a) and (c), 50 Fed. Reg. 9379, Mar. 7, 1985, effective date May 8,1985; 50 Fed. Reg. 31825, Aug. 6, 1985, effective date Oct. 5, 1985; revised, 54 Fed. Reg. 6893, Feb. 15, 1989;54 Fed. Reg. 9432, March 7, 1989, effective Apr. 17, 1989, revised 56 Fed. Reg. 65142, Dec. 13, 1991, effective Dec. 16, 1991; paras. (b)(4), (f) and (h),57 Fed. Reg. 38190, Aug. 21, 1992, effective Oct.1, 1992; para. (a)(3), 58 Fed. Reg. 38719, July 20, 1993, effective Oct. 1, 1993; paras. (a)(1)(ii), (a)(1)(iii), (b)(1)(i), & (b)(1)(ii) amended, 60 Fed. Reg. 41018, Aug. 11, 1995, effective Oct. 1, 1995; paras. (a)(2) and (a)(3) amended, 62 Fed. Reg. 40450, July 29, 1997, effective Oct. 1, 1997]

[4] The regulations at 37 C.F.R. §1.63 provide:

§1.63 Oath or declaration.
(a)An oath or declaration filed under § 1.51(b)(2) as a part of an application must:
(1) Be executed in accordance with either § 1.66 or § 1.68;
(2) Identify the specification to which it is directed;
(3) Identify each inventor by: full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and the residence, post office address and country of citizenship of each inventor; and
(4) State whether the inventor is a sole or joint inventor of the invention claimed.
(b) In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration:
(1)Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;
(2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and
(3) Acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in §1.56.
(c) In addition to meeting the requirements of paragraphs (a) and (b) of this section, the oath or declaration in any application in which a claim for foreign priority is made pursuant to § 1.55 must identify the foreign application for patent or inventor's certificate on which priority is claimed and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing.
(d)--
(1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:
(i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;
(ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;
(iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new

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.

/JG

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Counsel of Record:
JOHN W. OGILVIE
COMPUTER LAW
1211 EAST YALE AVE
SALT LAKE CITY, UT 84105

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matter in the prior application; and

(iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

(2) The copy of the executed oath or declaration submitted under this paragraph for a continuation or divisional application must be accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application.

(3) Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:

(i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and

(ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

(4) Where the power of attorney (or authorization of agent) or correspondence address was changed during the prosecution of the prior application, the change in power of attorney (or authorization of agent) or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney (or authorization of agent) or correspondence address during the prosecution of the prior application.

(5) A newly executed oath or declaration must be filed in a continuation or divisional application naming an inventor not named in the prior application.

(e) A newly executed oath or declaration must be filed in any continuation-in-part application, which application may name all, more, or fewer than all of the inventors named in the prior application. The oath or declaration in any continuation-in-part application must also state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

* * *

[48 Fed. Reg. 2711, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983; paras. (b)(3) and (d), 57 Fed. Reg. 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (a) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a) & (d) revised, para. (e) added, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

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Paper No. 6

JUL 29 2003

Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church VA 22040-0747

In re Application of:
UCHISAKO *et al.*
Serial No.: 09/670,840
Filed: September 28, 2000
For: INK JET PRINTER

DECISION ON PETITION

This is a decision on the petition, 37 CFR § 1.181, filed May 14, 2003, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on August 27, 2002. A Notice of Abandonment was mailed on March 14, 2003.

Petitioner asserts that the Office action mailed on August 27, 2002, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, and the attachments, is sufficient to establish a showing of non-receipt of the Office action mailed August 27, 2002.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 C.F.R. § 1.136.

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

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WASHINGTON, D.C. 2023
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Paper No. 11

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

MAY 2 9 2003

Technology Center 2100

In re Application of:	)	
Brown, J.M.	)	
Application No. 09/670,855	)	**DECISION ON REQUEST FOR**
Filed: September 26, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: DETERMINISTIC TESTING OF EDGE-TRIGGERED LOGIC	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

FOR Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

A SIDNEY JOHNSTON
CESARI AND MCKENNA
88 BLACK FAICON AVENUE
BOSTON MA 02210

In re Application of	:	
Kenneth Jordan et al	:	
Application No. 09/670,864	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. 112025-0420	:	

This is a decision on the petition, filed February 8, 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 6, 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 2642 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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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 04/21/2010

Applicant	: Stuart A. Fraser	: DECISION ON REQUEST FOR
Patent Number	: 7574375	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/670,900	: OF WYETH
Filed	: 09/28/2000	:
		:

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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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 05/18/2010

Applicant : Stuart A. Fraser
Patent Number : 7574375
Issue Date : 08/11/2009
Application No : 09/670,900
Filed : 09/28/2000

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1099** 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** 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 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 deterimation 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).

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JUN 28 2005

Fish and Richardson, PC
12390 El Camino Real
San Diego, CA 92130-2081

In re Application of
Erik K. Antonsson
Application No. 09/670,908
Filed: September 28, 2000
For: PROGRAMMABLE GAS GENERATOR USING MICROCELLS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 31, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated June 16, 2004.

☐ 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_____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/mg: 6/23/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

#13
7-29-03

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Paper No. 13

Michael B. Lasky
Altera Law Group, LLC
6500 City West Parkway – Suite 100
Minneapolis, Minnesota 55344-7701

In re Application of: McKean et al. Application No. 09/671,002 Attorney Docket No. SJ09-2000-068US1 Filed: September 27, 2000 For: METHOD AND APPARATUS FOR MIGRATING DATA HAVING A FORMAT OF A FIRST TYPE TO A FORMAT OF A SECOND TYPE	DECISION ON PETITION TO WITHDRAWAL HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the petition filed on June 10, 2003 to withdraw the holding of abandonment under 37 CFR § 1.181(a) (Paper No. 11) mailed on May 6, 2003. The abandonment was based upon applicants' failure to respond to the final rejection mailed September 24, 2002.

Applicable Prosecution History

Jan 12, 2001	Change of address filed (Paper No. 2)
Apr 14, 2002	Change of address submitted via Customer No. 22865 (Paper No. 5)
Sep 24, 2002	Final rejection mailed (Paper No. 8)
Apr 23, 2003	Change of address filed in response to examiner query. Address submitted is duplicate of January 12, 2001 filing.

Issues

The petition includes statements from Mr. Michael B. Lasky that the Office communication mailed September 24, 2002 was not received; that a change of address was submitted January 10, 2001 which is evidenced by a postcard receipt date stamped "January 12, 2002 [sic]"; a statement the practitioner received the first action on the merits but not the subsequent final rejection; and that a search of the file jacket and docket records indicated the Office action was not received. The practitioner has attached numerous sheets of a docket printout for Office communications for the date the non-received Office communication would have been entered had it been received and docketed.

Decision

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes the communication was properly mailed to the address of record. According to MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

a) a statement from the practitioner that the Office action was not received,
b) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates the Office communication was not received,
c) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed, and
d) a reference to the docket record in the practitioner's statement.

The practitioner's statements should be made in regard to records the *address of record at the time of the mailing*. The original declaration set forth the address for Bren Road East. The change of address filed in January 2001 for 6500 City West Parkway is, in fact, in the application file and was used for the mailing of the first action on the merits dated April 25, 2002. However, the Office file also shows evidence the practitioner filed a change of address for customer number 22865 on April 14, 2002 ***which changed the address back to Bren Road East***. While the final rejection may have been sent to the "wrong" address, according to the practitioner, the evidence suggests the practitioner introduced an error in the correspondence address via a customer number change. Therefore, it appears the July 2002 paper was properly mailed to the address changed by the practitioner on April 14, 2002.

The petition has not overcome the presumption of receipt. The file jacket and docket records should be for the Bren Road East address at the time of the mailing of the final rejection.

The petition is **DISMISSED**.

If petitioners desire further review of this decision, petitioners should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

#16

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TECHNOLOGY CENTER 2100

Paper No. 16

Michael B. Lasky
Altera Law Group, LLC
6500 City West Parkway, Suite 100
Minneapolis, MN 55344-7701

In re Application of: McKean et al.	)	
Application No. 09/671,002	)	
Attorney Docket No. SJ0920000068US1	)	**DECISION ON PETITION TO**
Filed: September 27, 2000	)	**WITHDRAW HOLDING OF**
For: METHOD AND APPARATUS FOR	)	**ABANDONMENT UNDER 37 CFR**
MIGRATING DATA HAVING A FORMAT	)	**§1.181**
OF A FIRST TYPE TO A FORMAT OF A	)	
SECOND TYPE	)	

This is a decision on the renewed petition, filed October 2, 2003, by Mr. David W. Lynch requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is being considered under 37 CFR §1.181. This application was held abandoned for failure to respond to the Final Rejection mailed September 24, 2002 (Paper No. 8). A Notice of Abandonment was mailed on May 6, 2003 (Paper No. 11). The original petition was dismissed because it was not clear the evidence provided by the practitioner was for the address of record at the time of mailing of the Office action.

In support of the current petition for reconsideration, Mr. Lynch provides statements that the Office action was not received; that the practitioners filed no change of address on April 14, 2002; and that an address change to Customer Number 22865 was caused by Office error. The renewed petition does not discuss for which address the evidence originally submitted on June 10, 2003 was provided.

Applicable Prosecution History

Sep 27, 2000	Original declaration and power of attorney filed
Jan 12, 2001	Change of address filed (Paper No. 2)
Apr 25, 2002	First action on the merits mailed (Paper No. 4)
Apr 14, 2002	Customer No. 22865 established for this application and change of address and change to powers of attorneys made (determined by reviewing PALM records)
May 14, 2002	Change of address and power of attorney paper matched to application (see Paper No. 5)

Jul 5, 2002	Amendment filed (Paper No. 6)
Sep 24, 2002	Final rejection mailed (Paper No. 8)
Mar 24, 2003	Six-month period for reply expired
Apr 23, 2003	Change of address filed in response to examiner query. Address submitted is duplicate of January 12, 2001 filing
May 6, 2003	Notice of abandonment mailed (Paper No. 11)
Jun 10, 2003	Petition to withdraw holding of abandonment filed
Jul 18, 2003	Change of address filed (Paper No. 14)
Jul 29, 2003	Petition decision mailed (Paper No. 13)

Issues involving Address Changes

Unraveling this file's address changes and powers of attorney is complicated by the practitioners' use of a customer number to make changes to applications they are prosecuting. In addition, different practitioners have drafted the original petition (Mr. Lasky) and the renewed petition (Mr. Lynch) along with an apparent shift in the firms responsible for prosecuting this application. Finally, an attempt by Mr. Lynch to change the address in July 2003 crossed in the mail with the petition decision mailed July 29, 2003.

Mr. Lynch has made an unsubstantiated statement regarding an Office error made around May 2002 to the address associated with customer number 22865. At an unspecified date, the attorneys of record discovered the "unauthorized update of the address for customer number 22865." This unauthorized update was made to "many such files." Mr. Lynch further states that "previous petitions for other applications have been denied, but later accepted...". The type of petitions and who was the deciding official in the accepted petitions is left to the imagination. The practitioner mentions Mr. Scherbel, but as Mr. Scherbel is a supervisory patent examiner (SPE), it is unclear as to how Mr. Scherbel became involved and in what capacity he resolved these cases. A supervisory patent examiner is not normally involved in solving a problem affecting many applications across the Office for applicants, but rather, may help in isolated files before their art unit. Clarification of these various statements is requested.

What evidence the Office does have is found in the file wrapper and in the electronic database for applications, PALM. On September 27, 2000, a valid declaration appointed Mr. Lynch and Altera Law Group (which included Mr. Lasky) at the address of 10749 Bren Road East, Opus 2, Minneapolis, MN 55343. A change of address, filed by Mr. Lynch on January 12, 2001 changed the correspondence address to Altera Law Group at 6500 City West Parkway, Minneapolis MN 55344. Around April 14, 2002, it appears from the Office's electronic records (PALM), that the Altera Law Group established a customer number for it applications. A change of address/power of attorney paper was matched to the application on May 14, 2002 that *re-established* the Bren

Road address and listed the practitioner numbers for customer number 22865 as 29555, 36204, 37674, 37830 and 40337 *only*. Mr. Lynch's number is 36204 and Mr. Lasky's number is 29555; therefore, both practitioners remained of record. It is noted that papers filed by the practitioners after May 2002 bear the Customer Number 22865.

The paper submitted via fax on April 23, 2003 was labeled as a *copy* of the change of correspondence address filed in January 2001. It carried the bar code for customer number 22865 and was signed by Mr. Lynch. Mr Lynch transmitted no separate instructions in the cover letter. In hindsight, it appears Mr. Lynch was signaling the Office that the proper address should have been 6500 City West Parkway, but no specific instructions to that effect were given. As the address had been established via customer number, the Office did not revert to the 2001 address based upon Mr. Lynch's letter.

The following guidelines were set forth in the Official Gazette Notice, 1191 OG 187, "Extension of the Payor Number Practice (through 'Customer Numbers') to Matters Involving Pending Patent Applications" dated October 15, 1996.

> As the PTO will not recognize more than on correspondence address (37 CFR 1.34(c)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number. Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration number from plural sources.

Essentially, Mr. Lynch could not correct the correspondence address via separate letter once the customer number was established for this application. Any changes to the correspondence address would need to be made by updating the information associated with the customer number.

The practitioners are invited to provide copies of the information submitted to the Office at the time the customer number was established for this application to determine whether the Office in fact made a mistake. Absent a showing by the practitioners that an Office error occurred in the establishment of the correspondence address associated with Customer Number 22865; the address is presumed to be correct, Mr. Lynch's statements notwithstanding.

A review of the electronic database indicates Customer Number 22865 is no longer associated with this application. The practitioners should provide evidence as to when and how this change occurred. For purposes of this petition decision, the address of 6500 City West Parkway, Suite 100 will be used, but it now appears that the change of address accepted April 30, 2003 should not have been accepted unless the address was updated for the customer number. That issue is moot in regards to whether the Final Rejection was mailed to the "proper address" since the mail date of the Final Rejection was *September 24, 2002*.

Additionally, the Office's electronic records show that Mr. Lynch no longer is a practitioner of record for Customer Number 22865. Mr. Lasky signed the first petition in June 2003 while Mr. Lynch has signed the latest petition. Therefore, pending resolution of who has the power of attorney in the file, this decision is being mailed to the firm associated with Customer Number 22865. As Mr. Lynch no longer is a practitioner of record for that Customer Number, he is not

authorized to submit a change of correspondence paper (see MPEP § 405). Therefore, the paper submitted July 18, 2003 has not been processed.

Issues involving Nonreceipt of Correspondence

All of this is still secondary as to the proof necessary set forth in MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

> *1) a statement from **the practitioner** that the Office action was not received,*
> *2) a statement from **the practitioner** that the file jacket and docket records were searched,*
> ***3) a copy of the docket record at the address of record**, and*
> *4) a reference to the docket record in the practitioner's statement.*
> [Emphasis added.]

The petition fails to fully comply with the requirements set forth above. The evidence submitted to date has not overcome the presumption of receipt.

At this point, it is not clear who was the practitioner at the time of the mailing of the Final Rejection in September 2002. As Mr. Lasky filed the original petition and made the original practitioner's statements, it is not clear he is the attorney who should have even been making the statements. Did he have access to Mr. Lynch's records at the time the statements were being made? To what address were the records addressed which were reviewed?

The evidence requested in the original petition decision is still requested: specifically a **listing** in accordance with the practitioner's normal record-keeping regarding incoming correspondence and the practitioner's tracking of due dates relating to this particular application. If the practitioner does not keep such a docketing record, the practitioner should make a statement addressing his normal record-keeping practices and how files are maintained in his office. Specifically needed are statements regarding how incoming mail is recorded and how deadlines are tracked. To date, the practitioner's evidence only shows the missing paper was not found in a file. The possibility remains the practitioner received the Final Rejection, but may have lost it later. Any statements must be for the address of record and by the practitioner responsible for the application at the time of the mailing of the Final Rejection.

The petition is **DISMISSED**.

Petitioners are being granted one additional opportunity to resolve the issues raised in this decision within two (2) months of the mailing date of this decision. No further submissions will be accepted after that. In the alternative, the petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. Telephone inquiries should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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COMMISSIONER FOR PATENTS
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Paper No. 22

David W. Lynch
Crawford Maunu PLLC
1270 Northland Drive, Suite 390
Mendota Heights, MN 55120

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JUN 1 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Brian McKean, et al.	:	
Application No. 09/671,002	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. SJ0920000068US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2100 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 14

STEVEN H. MEYER
WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS, LLP
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

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MAY 17 2004
OFFICE OF PETITIONS

In re Application of
Gajjala et al.
Application No. 09/671,055
Filed: September 28, 2000
Attorney Docket No. MSFT-0180/138333.1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed September 29, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 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 3600 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

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PATENT PROSECUTION SERVICES
PIPER MARBURY RUDNICK & WOLFE
1200 NINETEENTH STREET, NW
WASHINGTON, DC 20036-2412

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JAN 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Randal K. Buddington et al	:	
Application No. 09/671,106	:	NOTICE
Filed: September 28, 2000	:	
Attorney Docket No. 2343-104-27	:	

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.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

FITZPATRICK CELLA HARPER &
SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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SEP 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,885,387	:	
Khanapure et al.	:	DECISION ON REQUEST FOR
Issue Date: April 26, 2005	:	RECONSIDERATION OF
Application No. 09/671,161	:	PATENT TERM ADJUSTMENT
Filed: September 28, 2000	:	and
Attorney Docket No. 35.C14841	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed June 7, 2005. Patentees assert entitlement to a patent term adjustment of six hundred thirty-two (632) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred thirty-two (632) days.

On April 26, 2005, the above-identified application matured into U.S. Patent No. 6,885,387. The instant request for reconsideration filed June 7, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 512 days.

The initial determination of patent term adjustment of 591 days was increased by 41 days for Office delay in issuing the patent, but reduced by 120 days for patentees' submission of an amendment under § 1.312 after the mailing of the notice of allowance. Patentees contend that the amendment should not be considered a failure to engage because it was a necessary and direct response to an error in the title of the invention as set forth on the Notice of Allowance and Issue Fee Due.

37 CFR § 1.704(c)(10) provides that the submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed is a circumstance which constitutes a failure to engage in reasonable efforts to conclude processing or examination. It is undisputed that the other paper, an amendment under § 1.312 to correct the title, was submitted after the mailing of the notice of allowance. A review of the record supports a conclusion that the title was amended by way of amendment filed prior to the mailing of the notice of allowance. The notice of allowance was responsive to the amendment, but did not include the change of title. Under the circumstances of this case, the filing of the amendment to correct title after the mailing of the notice of allowance is not considered a "failure to engage in reasonable efforts" within the meaning of § 1.704(c)(10). No reduction for the filing is warranted.

In view thereof, the patent term adjustment indicated in the patent should be six hundred thirty-two (632) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by SIX HUNDRED THIRTY-TWO (632) days.

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 DRAFT Certificate of Correction

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/05/06

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/671283** Patent No.: **6995166**

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. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

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P.O. BOX 19928
ALEXANDRIA, VA 22320

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Osamu Okumura et al :
Application No. 09/671,354 : ON PETITION
Filed: September 27, 2000 :
Attorney Docket No. 038959.01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 14, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter 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 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).

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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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Date : December 15, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Osamu Okumura et al
Application No. : 09/671,354
Filed : September 27, 2000

The above-identified application has been assigned Patent No. 6,980,265 and an issue date of December 27, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 27, 2005:

"All reference to Patent No. 6,980,265 to Osamu Okumura et al of Suwa-shi, JAPAN for REFLECTIVE TYPE COLOR LIQUID CRYSTAL DEVICE AND AN ELECTRONIC APPARATUS USING THIS appearing in the Official Gazette of December 27, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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Commissioner for Patents
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May 18, 2005

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

MAY 20 2005

In re Application of:	:	
MORISHITA, et al.	:	
Application No. 09/671,429	:	DECISION ON PETITION TO
Filed: September 27, 2000	:	WITHDRAW HOLDING OF
Attorney Docket No.: HITA.0024	:	ABANDONMENT

This is a decision on the petition filed, September 16, 2004, requesting withdrawal of the holding of abandonment for the above-identified application.

The petition is granted.

The application was held abandoned for failure to respond to the Office action mailed May 29, 2003. A Notice of Abandonment was mailed June 16, 2004.

Petitioner asserts that on August 29, 2003, a response was timely filed. To support this assertion, petitioner has submitted a copy of the response and a copy of an itemized postcard date stamped by the United States Patent and Trademark Office (PTO) on August 29, 2003.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed, but has since been located and matched therewith.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Arne Staby :
Application No. 09/671,461 :
Filed: September 27, 2000 :
Attorney Docket No. 5784.210-US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before January 2, 2007 in reply to the Notice of Allowability, mailed October 2, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 3, 2007. A Notice of Abandonment was mailed on February 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $1,500; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of October 2, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Offic
Washington, D.C. 2023
www.uspto.go

Paper No. 8

Patent Counsel MS 2061
Legal Affairs Department
Applied Materials Inc.
PO Box 450A
Santa Clara, CA 95052

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Kurita et al.	:	
Application No. 09/671,504	:	ON PETITION
Filed: September 26, 2000	:	
Attorney Docket No. 004947	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 7, 2002, which set a shortened statutory period for reply of (1) One month. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 8, 2002.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Benjamin A. Adler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Benjamin Adler desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application file is being forwarded to Technology Center AU 1746 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Adler & Associates
8011 Candle Lane
Houston, TX 77071

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

MAILED

JUN 0 3 2003

Technology Center 2100

Duke W Yee
CARSTENS YEE & CAHOON LLP
P.O. Box 802334
Dallas, TX 75380

In re Application of:	)	
steven FARAGO et al.	)	**DECISION ON PETITION**
Application No.: 09/671,513	)	**UNDER 37 C.F.R. § 1.181 TO**
Filed: September 21, 2000	)	**WITHDRAW HOLDING OF**
For: DI-DIRECTIONAL STACK IN A	)	**ABANDONMENT**
LINEAR MEMORY ARRAY	)	

This is a decision in response to the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment filed March 24, 2003

The petition is **GRANTED**.

This application was held abandoned for failure to file a timely response to the Office action of mail date July 31, 2002. A Notice of Abandonment was mailed on February 7, 2003.

In support of the petition, Applicant asserts that the Office action was not received, and that no record of the Office action was found in the Attorney's file for this application. Petitioner supplies a copy of the case history report for the instant application and states that this is where the record would have been entered in the firm's case tracking system. The case history report shows no entry indicating receipt of the Office action mailed July 31, 2002.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has met the criteria of set out in MPEP 711.03(c) for establishing failure to receive an Office action.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff. The Office action of July 31, 2002 will be remailed to the address noted above with the three month Shortened Statutory Period restarted to run from the date of the remailing.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Security, Architecture and
Information Security
703-305-9750

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COMMISSIONER FOR PATENTS
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Kusakabe, et al. :
Application No. 09/671,623 : DECISION ON PETITION
Filed: September 28, 2000 :
Docket No.: 862.C2011 :

This is a decision on the petition under 37 CFR 1.181, filed May 30, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed September 26, 2005. Notice of Abandonment was mailed March 30, 2007.

Petitioners assert non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 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.

The arguments and supporting documentation presented have been carefully considered. Moreover, petitioners have included a copy of a docket report covering the time period that a response would have been due had it been received. In view thereof, the evidence

presented support the conclusion that the Office communication dated September 26, 2005 was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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JOHN BRUCKNER, P.C.
5708 BACK BAY LANE
AUSTIN, TX 78739

COPY MAILED

MAY 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Dress et al.	:	
Application No. 09/671,636	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. UBAT1300	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 26, 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 May 6, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on August 7, 2004. A Notice of Abandonment was mailed December 17, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5/17/05

2 Serial/Patent # 09671636

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	EOT	4/26/05	$ 1020.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1020.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 50--3204

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

EOT was not timely filed, therefor unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Liana Chase TITLE: Paralegal

SIGNATURE: Liana Chase PHONE: 272-3206

OFFICE: Petitions Office

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alica Kell DATE: 5/18/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED

MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/671,654 :
Filed: September 28, 2000 :
Attorney Docket No. 0756-2210 :

ON PETITION

This is a decision on the petition, filed March 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2879 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

09/671,674

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/07 Paper No.: ____

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: RE 38943

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes noted in the Certificate of Corrections dated 10/26/07 are approved for entry, except for the following which should be changed as follows (Also see attached which shows the corrections):

On Page 1: Column 86, line 18 begins "lens means having" should read "lens means, having"

On Page 3: Column 90, line 38 begins "differs from that for the incident light converged at another" should read "differs from that for the incident light converged at another."

Arnel C. Lavarias 10/26/08
ARNEL LAVARIAS
PRIMARY PATENT EXAMINER

Stephone B. Allen
Supervisory Patent Examiner

SPE

Art Unit

MNL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No.

ARMSTRONG WESTERMAN HATTORI
MCLELAND & NAUGHTON
SUITE 1000
1725 K STREET NW
WASHINGTON, DC 20006

APR 26 2002
ARMSTRONG WESTERMAN, HATTORI

OIPE JC48
SEP 25 2003
PATENT & TRADEMARK OFFICE

COPY MAILED

APR 24 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Akinori Maruyama
Application No. 09/671,697
Filed: September 28, 2000
Attorney Docket No. 001282

This is a decision on the petition, filed April 16, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 22, 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 Wan Laymon at (703) 306-5685.

The application is being forwarded to Technology Center AU 2821 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
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Seen
JW
4-26-02

[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
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

FEB 14 2003
Mailed:_____

mfh
Paper Number: 7

In re application of
Finders et al.
Serial No. 09/671,802
Filed: September 28, 2000
For: LITHOGRAPHIC METHOD AND APPARATUS

DECISION ON PETITION

This is a response to the STATEMENT TO PATENT OFFICE IN SUPPORT OF NON-RECEIPT OF ELECTION REQUIREMENT, filed August 26, 2002. Note that no Notice of Abandonment has been mailed in this case. An Office Action was mailed on January 10, 2002. Since no reply was received, this application effectively went abandoned July 11, 2002. The petition requests that the effective abandonment for failure to timely file a proper response to the Office letter mailed January 10, 2002 be withdrawn. The petitioner asserts that the Office letter was not received by the applicants or any authorized representative of the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the above noted Office letter was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided is a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the effective abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for

prompt remailing of the Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA, GA 30308-2216

COPY MAILED

JUL 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Daoqiang Lu et al :
Application No. 09/671,963 :
Filed: September 27, 2000 :
Attorney Docket No. GTRC40 :

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 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Lowe Hauptman Gopstein Gilman & Berner LLP
1700 Diagonal Road Suite 310
Alexandria, VA 22314

MAILED

APR 15 2003

Director's Office
Group 3700

Paper No. 19

In re Application of
DEHMER, BERNHARD
Application No.: 09/672,038
Filed: September 29, 2000

DECISION ON PETITION

This is a decision on the petition filed November 26, 2002 to review the finality of the Office action mailed on November 12, 2002 under 37 CFR 1.181 and the restriction requirement under 37 CFR 1.144 in the same Office action. It is also noted that an amendment was filed on February 19, 2003 with a certificate of mailing of February 12, 2003.

The petition under 37 CFR 1.181 to withdraw the finality of the Office action is GRANTED.

The petition under 37 CFR 1.144 to withdraw the restriction requirement is DISMISSED as untimely.

MPEP 1208.02 states in part:

> The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a).

37 CFR 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. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

In response to petitioner's appeal brief filed on July 29, 2002, a final office action was mailed on November 12, 2002. A review of the file history indicates that the new ground of rejection in the November 12, 2002 Office action was not necessitated by amendment or based on information resented in an IDS under 17 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed as set forth in MPEP 1208.02. Accordingly, the petition to withdraw the finality of the Office action is granted. In addition, it is noted that the Office action does not indicate that supervisory approval was given to reopen prosecution. The next Office action should indicate that such approval was received.

In regard to the petition to withdraw the restriction requirement, there has been no final requirement for restriction or reconsideration requested by the petitioner as required by 37 CFR 1.144, therefore, the petition to withdraw the restriction requirement is premature and is dismissed as untimely. The examiner is instructed to treat petitioner's arguments as a request for reconsideration.

Since petitioner has filed a response to the November 12, 2002 Office action, the finality of the Office action will be withdrawn and the response filed February 19, 2003 will be entered. The application will be forwarded to the examiner for action not inconsistent with this decision.

Any inquiry to this decision should be directed to Special Program Examiner, Linda Sholl, at 703-308-1288.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL A GOTTLIEB
ASST GEN COUNSEL FOR TECH TRANSFER & INTELL PROP
GC-62 MS 6F-067 FORSTL
1000 INDEPENDENCE AVE SW
WASHINGTON DC 20585-0162

COPY MAILED
MAR 24 2008

In re Application of	:	
Ekechukwu	:	
Application No. 09/672,046	:	DECISION
Filed: 29 September 2000	:	
Attorney Docket No. S-88,273	:	

This is a decision on the petition filed on 16 August, 2002, then resubmitted on 18 August, 2003, and again on 8 November, 2007, further asserted and supplemented on 20 March, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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 and Fees Due mailed on 26 February, 2003, with reply due under a non-extendable deadline on or before 28 May, 2002;
- the application went abandoned after midnight 28 May, 2002;
- the Office mailed the Notice of Abandonment on 19 July, 2002;
- on 16 August, 2002, Petitioner first filed the instant petition with, *inter alia*, averment of non-receipt, which Petitioner supported with, *inter alia*, the declaration of the office

paralegal who received and maintained the papers in the instant application and set forth in detail that the file did not contain the Notice of Allowance/Allowability and Fees Due because it was not received, and therefore not recorded on the file jacket and therefore not entered into the file, a showing consistent with the instructions of the guidance in the Commentary MPEP §711.03 (c);

- on 18 August, 2003, and again on 8 November, 2007, Petitioner repeated this showing with the instant petition resubmitted;

- on 20 March, 2008, Petitioner further supplemented the instant petition with payment of the fees due and an additional statement of search/non-receipt supported by a copy of the due date docket, pursuant to the guidance in the Commentary at MPEP §711.03(c).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The 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. 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]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 19 July, 2002, Notice of Abandonment is **vacated**.

The instant application is released to Publications Branch to be processed into a patent in due course.

---

[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.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Publications Branch where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 02/26/2002

Paul A Gottlieb
Asst Gen Counsel for Tech Transfer & Intell Prop
GC-62 MS 6F-067 FORSTL
1000 Independence Ave SW
Washington, DC 20585-0162

EXAMINER
PHASGE, ARUN S

ART UNIT	CLASS-SUBCLASS
1741	205-043000

DATE MAILED: 02/26/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,046	09/29/2000	Amy A. Ekechukwu	S-88,273	1201

TITLE OF INVENTION: METHOD FOR ELECTROCHEMICAL DECONTAMINATION OF RADIOACTIVE METAL

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
7	nonprovisional	NO	$1280	$0	$1280	05/28/2002

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (REV. 07-01) Approved for use through 01/31/2004.

PART B - FEE(S) TRANSMITTAL

Complete and mail this form, together with applicable fee(s), to:

Box ISSUE FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 02/26/2002

Paul A Gottlieb
Asst Gen Counsel for Tech Transfer & Intell Prop
GC-62 MS 6F-067 FORSTL
1000 Independence Ave SW
Washington, DC 20585-0162

Note: The certificate of mailing below can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

Certificate of Mailing

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,046	09/29/2000	Amy A. Ekechukwu	S-88,273	1201

TITLE OF INVENTION: METHOD FOR ELECTROCHEMICAL DECONTAMINATION OF RADIOACTIVE METAL

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
7	nonprovisional	NO	$1280	$0	$1280	05/28/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
PHASGE, ARUN S	1741	205-043000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

❑ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

❑ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____
2_____
3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ❑ individual ❑ corporation or other private group entity ❑ government

4a. The following fee(s) are enclosed:

❑ Issue Fee

❑ Publication Fee

❑ Advance Order - # of Copies _____

4b. Payment of Fee(s):

❑ A check in the amount of the fee(s) is enclosed.

❑ Payment by credit card. Form PTO-2038 is attached.

❑ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____(enclose an extra copy of this form).

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, United States Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington, D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,046	09/29/2000	Amy A. Ekechukwu	S-88,273	1201

7590 02/26/2002

Paul A Gottlieb
Asst Gen Counsel for Tech Transfer & Intell Prop
GC-62 MS 6F-067 FORSTL
1000 Independence Ave SW
Washington, DC 20585-0162

EXAMINER
PHASGE, ARUN S

ART UNIT	PAPER NUMBER
1741	

DATE MAILED: 02/26/2002

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The patent term adjustment to date is 89 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 89 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (http://pair.uspto.gov)

PTOL-85 (REV. 07-01) Approved for use through 01/31/2004.

Notice of Allowability	Application No.	Applicant(s)	
	09/672,046	EKECHUKWU, AMY A.	
	Examiner	Art Unit	
	Arun S. Phasge	1741	

-- 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 *the filing of the application*.
2. ☒ The allowed claim(s) is/are *1-7*.
3. ☒ The drawings filed on *29 September 2000* are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
   (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. ☐ CORRECTED DRAWINGS must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No. ____.
   (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
   (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1☒ Notice of References Cited (PTO-892)
3☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
5☒ Information Disclosure Statements (PTO-1449), Paper No. 2.
7☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

2☐ Notice of Informal Patent Application (PTO-152)
4☐ Interview Summary (PTO-413), Paper No.____ .
6☐ Examiner's Amendment/Comment
8☒ Examiner's Statement of Reasons for Allowance
9☐ Other

Arun S. Phasge
Primary Examiner
Art Unit: 1741

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: none of the prior art of record fairly disclose the claimed method for removing radionuclides adhered to the surface of at least one of stainless steel or aluminum material comprising using a carbonate/bicarbonate electrolyte solution having a pH of about 4 and at least one of sodium or potassium ions, and electrolytically removing the radionuclides from the surface of the metal.

While it is known in the art to remove radionuclides from the surface of a metal by electrolysis, none of the references disclose the use of the claimed electrolyte with the attendant benefits disclosed in the specification.

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."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Phasge whose telephone number is (703) 308-2528. The examiner can normally be reached on MONDAY-THURSDAY, 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KATHRYN GORGOS can be reached on (703) 308-3328. The fax phone

numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Arun S. Phasge
Primary Examiner
Art Unit 1741

asp
February 25, 2002

PTO/SB/64 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JAN 02 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Fenwick & West LLP
Two Palo Alto Square
Palo, Alto, CA 94306

In re application of
Craig A. Nies, et al
Application No. 09/672,142
Filed: September 27, 2000
For: Webstation Configurable Web-based Workstation for Reason Driven Data Analysis

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 4, 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 conditions A) above.

As to condition A), all of the attorneys originally given power are not listed in Customer Service Number 00758.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3866
Facsimile No.: (703) 605-0586

KJD/nlw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Glenn Patent Group
Suite L
3475 Edison Way
Menlo Park, CA

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Craig Nies, et al.	:	
Application No. 09/672,142	:	DECISION ON PETITION
Filed: September 27, 2000	:	TO WITHDRAW
Attorney Docket No. 35006-569001US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Glenn Patent Group has been revoked by the assignee of the patent application on February 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.**
Attn: Patent Intake Customer No. 76615
One Financial Center
Boston, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KONRAD RAYNES & VICTOR
ATTN: IBM54
315 SOUTH BEVERLY DRIVE
SUITE 210
BEVERLY HILLS, CA 90212

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Curt L. Cotner et al	:	
Application No. 09/672,172	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. STL920000080US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 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 September 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 11, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 09-0460 was charged a total of $2,903.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee and $3.00 for one (1) soft copy.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 21

Law Offices of Adam H. Jacobs
Patent Attorney
1904 Farnam Street
Suite 726
Omaha, NE 68102

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MAY 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Alberto Alvarez-Calderon F.	:	
Application No. 09/672,190	:	ON PETITION
Filed: September 28, 2000	:	
Attorney Docket No. 1186-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 3600 for processing the Request for Continued Examination under 37 CFR 1.114 filed January 30, 2004.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Offices of Adam H Jacobs
Patent Attorney
Suite 726
1904 Farnam Street
Omaha NE 68102

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Alberto Alvarez-Calderon F.	:	
Application No. 09/672,190	:	ON PETITION
Filed: September 28, 2000	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 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 November 3, 2005. 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 February 4, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that *prima facie* places the application in condition for allowance; (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) 272-6842.

This application is being referred to Technology Center AU 3617for appropriate action by the Examiner in the normal course of business on the amendment submitted May 5, 2007.

Carl Friedman
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

Alberto Alvarez-Calderon F.
410 Fern Glen
La Jolla, CA 92037

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AUG 2 9 2008

In re Application of:	:	
ALVAREZ-CALDERON F., Alberto	:	
Application No.: 09/672,190	:	LETTER RE
Filed: September 28, 2000	:	DECEASED ATTORNEY
Attorney Docket No.:	:	

Pursuant to our telephone discussion on Monday, August 25, 2008, your sole principal attorney Adam H. Jacobs (Reg. No. 37,852) died on May 30, 2008. Notice of Mr. Jacobs' death was received by the United States Patent and Trademark Office (USPTO) on or about August 25, 2008.

As discussed in Section 406 of the Manual of Patent Examining Procedure (MPEP), the power of a principle attorney will be revoked or terminated by his or her death. Once the USPTO has received notice of the death of a principal attorney, correspondence is held with the applicant or assignee who originally appointed the deceased principle attorney. Since you empowered Mr. Jacobs to act on your behalf, the USPTO has changed the correspondence address to reflect your above address, the correctness of which you confirmed during our discussion. As such, all correspondence will now be mailed to you at the above address until a new attorney or agent has been empowered and all appropriate papers have been filed establishing a new correspondence address.

On July 25, 2008, the USPTO mailed a Notice of Allowance and Fee(s) Due (hereinafter "Notice of Allowance") and attached papers to Mr. Jacobs at the correspondence address of record at that time. The Notice of Allowance mail to Mr. Jacobs, as discussed, was returned to the USPTO with a notice of his death. The Notice of Allowance and attached papers that were returned to the USPTO are enclosed with this Letter for your records.

The Notice of Allowance set forth a non-extendible three month statutory time period, from the July 25, 2008 mailing date of the Notice of Allowance, to pay the requisite $720.00 Issue Fee. The deadline for payment of the $720.00 Issue Fee continues to be October 27, 2008, which was also discussed. Failure to pay the Issue Fee on or before October 27, 2008 will result in abandonment of the application.

Also accompanying this Letter is a courtesy copy of a Notice to File Corrected Application Papers (hereinafter "Notice") mailed by the USPTO on August 26, 2008 to Mr. Jacobs at the correspondence address of record at that time. This Notice sets forth a non-extendable two month time period to correct the informalities identified therein. More specifically, the Notice includes an attached Identification of Drawing Deficiencies identifying that (1) all the drawings are marred by black smudges, obliterations, or fax/copier marks, which may include for example, speckles or dots in a substantial portion of the drawings; and (2) all of the figures include poor lines, numbers, and letter. In order to avoid abandonment of the application, new drawings correcting the informalities in the Notice and Identification of Drawing Deficiencies must be filed on or before October 26, 2008.

Telephone inquiries relating to this Letter should be directed Brian W. Brown at (571) 272-5338.

Telephone inquiries relating to the Notice to File Corrected Application Papers mailed August 26, 2008 should be directed to Don Fairchild of the Office of Data Management at (703) 308-9250, ext. 126, as set forth therein.

Brian W. Brown
Petitions Examiner
Office of Petitions

Enclosures: Notice of Allowance and attached papers, mailed July 25, 2008, 4 pages
Notice to File Corrected Application Papers, mailed August 26, 2008, 3 pages

PETDEC

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

LAWRENCE E. ASHERY, ESQ.
RATNER & PRESTIA
SUITE 301, ONE WESTLAKES
BERWYN, PO BOX 980
VALLEY FORGE, PA 19482-0980

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of Yoshida et al. Application No. 09/672,216 Filed: September 28, 2000 Attorney Docket No. MAT-8023US	:	DECISION DISMISSING PETITION

This is a decision on the petition filed on November 27, 2000, in effect requesting that a Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed on November 13, 2000, be partially withdrawn to the extent that it refers to omitted figures.

The petition is **DISMISSED as moot**.

The application was filed on September 28, 2000. On November 13, 2000, the Initial Patent Examination Division (OIPE) mailed the Notice advising Applicants that the declaration filed on September 28, 2000 was not signed, and that Figures 3C and 4B described in the specification appeared to have been omitted from the filed application.

In response, the present petition was filed. Petitioners point out, and the Office agrees, that the November 13, 2000 Notice is erroneous in that the specification of this application does not refer to a Figure 3C or a Figure 4B as alluded to in that Notice. However, on August 15, 2001, subsequent to the filing of the present petition, OIPE mailed a letter to Applicants indicating that the November 13, 2000 Notice had been sent in error and was withdrawn. A corrected Notice that refers only to the unsigned declaration was enclosed with that letter.[1] The petition is thus dismissed as moot. No petition fee is owed.

In addition, the Power of Attorney submitted on January 11, 2001 has been entered and made of record.

The application is being returned to OIPE for further processing.

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

---

[1] The 8/15/01 Notice was intended not as a notice but rather a replacement for the 11/13/00 Notice, since Applicants had already filed a signed declaration and power of attorney on 1/11/01.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 6

Robert R. Sachs
FENWICK & WEST
Two Palo Alto Square, Suite 500
Palo Alto, CA 94306

MAIL

NOV 1 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: William Robert Caid)
Application No. 09/672,237)
Filed: September 27, 2000)
For: CONTEXT VECTOR GENERATION)
AND RETRIEVAL)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 4, 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 November 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: FAIR, ISAAC AND COMPANY INC.
200 Smith Ranch Road
San Rafael, CA 94903-5551

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

FAIR, ISAAC AND COMPANY, INC.
200 SMITH RANCH ROAD
SAN RAFAEL, CA 94903-5551

COPY MAILED

MAR. 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Caid et al. :
Application No. 09/672,237 : ON PETITION
Filed: September 27, 2000 :
Attorney Docket No. 5382 :

This decision concerns the February 20, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned on July 10, 2003 for failure to timely submit a proper reply to the April 9, 2003 non-final Office Action. The instant petition requests revival of the application under 37 CFR 1.137(b).[1]

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: **(1) the required reply to the Office action,** unless previously filed; (2) the $1,330 petition fee; and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The petition lacks items (1) and is thus dismissed.

A renewed §1.137(b) petition must comply with the requirements discussed above, be filed within **TWO MONTHS** of the mailing date of this decision,[2] and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

---

[1] The petition asserts non-receipt of the April 9, 2003 non-final Office Action. A petition to withdraw the holding of abandonment is not the same as a petition to revive an abandoned application. The USPTO record indicates that the April 9, 2003 non-final Office Action was properly mailed to the current address-of-record.

[2] Extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s). 37 CFR 1.137(e)(1).

Finally, the petition is accompanied by a "Revocation of Prior and Grant of New Power of Attorney" signed by a Kevin F. Baxter who is identified merely as "Vice President, Legal" of "Assignee of record." This document does not identify who the assignee is, or whether it is the assignee indicated in any particular assignment document recorded in the USPTO. This power of attorney is thus defective and will not be entered.

While a courtesy copy of the decision is being sent to the address indicated in the petition, all future correspondence on this application will be sent to the current address-of-record unless the USPTO is properly instructed otherwise.

If the new attorney wishes to obtain a copy of the April 9, 2003 non-final Office Action in order to prepare a reply thereto, a proper power of attorney should be filed along with a request for a copy of the Office action.

Telephone inquiries on this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025
Docket No. ISAA0060

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

FAIR, ISAAC AND COMPANY, INC.
200 SMITH RANCH ROAD
SAN RAFAEL, CA 94903-5551

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Caid et al.
Application No. 09/672,237
Filed: September 27, 2000
Attorney Docket No. 5382

ON PETITION

This decision concerns the February 20, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned on July 10, 2003 for failure to timely submit a proper reply to the April 9, 2003 non-final Office Action. The instant petition requests revival of the application under 37 CFR 1.137(b).[1]

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: **(1) the required reply to the Office action,** unless previously filed; (2) the $1,330 petition fee; and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The petition lacks items (1) and is thus dismissed.

A renewed §1.137(b) petition must comply with the requirements discussed above, be filed within **TWO MONTHS** of the mailing date of this decision,[2] and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

---

[1] The petition asserts non-receipt of the April 9, 2003 non-final Office Action. A petition to withdraw the holding of abandonment is not the same as a petition to revive an abandoned application. The USPTO record indicates that the April 9, 2003 non-final Office Action was properly mailed to the current address-of-record.

[2] Extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s). 37 CFR 1.137(e)(1).

Finally, the petition is accompanied by a "Revocation of Prior and Grant of New Power of Attorney" signed by a Kevin F. Baxter who is identified merely as "Vice President, Legal" of "Assignee of record." This document does not identify who the assignee is, or whether it is the assignee indicated in any particular assignment document recorded in the USPTO. This power of attorney is thus defective and will not be entered.

While a courtesy copy of the decision is being sent to the address indicated in the petition, all future correspondence on this application will be sent to the current address-of-record unless the USPTO is properly instructed otherwise.

If the new attorney wishes to obtain a copy of the April 9, 2003 non-final Office Action in order to prepare a reply thereto, a proper power of attorney should be filed along with a request for a copy of the Office action.

Telephone inquiries on this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025
Docket No. ISAA0060

UNITED STATES 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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of
Caid et al.
Application No. 09/672,237
Filed: September 27, 2000
Attorney Docket No. ISAA0060

ON PETITION

This decision concerns the May 13, 2004 renewed petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned on July 10, 2003 for failure to timely submit a proper reply to the April 9, 2003 non-final Office Action. The February 20, 2004 petition under 37 CFR 1.137(b) was dismissed on March 12, 2004, in that, a proper reply to the Office action did not accompany the petition and had not been previously filed.

The instant renewed petition again does not enclose a proper reply to the April 9, 2003 non-final Office Action and is thus dismissed.

A renewed §1.137(b) petition must comply with the requirements discussed above, be filed within **TWO MONTHS** of the mailing date of this decision,[1] and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

As requested, the new power of attorney and the new correspondence address have been entered and made of record. A copy of the April 9, 2003 non-final Office Action is also attached.

Telephone inquiries on this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachments:
Notice Regarding Change of Power of Attorney (revoking prior powers of attorney)
Notice of Acceptance of Power of Attorney (accepting 5/13/04 Power of Attorney)
4/9/03 non-final Office Action (courtesy copy)

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[1] Extensions of time under 37 CFR 1.136(a) are available. 37 CFR 1.137(e)(1).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Caid et al.	:	
Application No. 09/672,237	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. 5382	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed April 9, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 10, 2003. A Notice of Abandonment was mailed December 16, 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]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). Petitioner has still failed to submit a proper reply to the outstanding Office action mailed on April 9, 2003. As stated under 37 CFR 1.111(b), in order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. Accordingly, a proper response is required to revive the above-identified application. A copy of the outstanding Office action in enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Office action (April 9, 2003)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

OCT 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Caid et al.	:	
Application No. 09/672,237	:	ON PETITION
Filed: September 27, 2000	:	
Attorney Docket No. ISAA0060	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 06-01

Paper No. 7

KARIN H BUTCHKO, ESQ.
CARLSON GASKEY & OLDS PC
SUITE 350
400 W MAPLE ROAD
BIRMINGHAM, MI 48009

COPY MAILED

JUN 25 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of Maass, Bergmann, Herwig, Jutzi, Cardine, Grimm, Strauss, Drewniok, Killner, Wurm, Hof, Dobson, Schang, and Keyes Application No. 09/672,393 Filed: 28 September, 2000 Attorney Docket No. 60,130-899	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on 16 April, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on 28 July, 2000, without an executed oath or declaration.

Accordingly, on 13 November, 2000, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring, the basic filing fee, an executed declaration, a surcharge for their late filing, as well as a multiple dependent claim surcharge.

In response, on 16 April, 2001 (certificate of mailing date 13 April, 2001), the present petition was filed. The petition was accompanied by:

(1) The petition fee of $130.00;

(2) Request and payment for a three (3) month extension of time;

(3) The basic filing fee;
(4) A declaration executed by joint inventors Klaus-Peter Maass, Uwe Bergmann, Arnd G. Herwig, Stefan Jutzi, Patrice Cardine, Rainer Grimm, Klaus-Dieter Strauss, Daniel Drewniok, Harald Kollner, Georg Wurm, Patrick Hof, Simon Blair Dobson, and Kenneth W Schang on behalf of themselves and non-signing joint inventor Gregory Keyes, and
(5) A preliminary amendment.

Petitioners state that Keyes cannot be located. Petitioners assert that a copy of a draft of the application was mailed, via Federal Express, to joint inventor Keyes at his last known address, but that no response was received.

A grantable petition under 37 CFR 1.47(a) requires:
(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] The showing of record is insufficient to prove that diligent efforts were made to locate the non-signing inventor. Petitioner should explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail, telephone, national registry) continue to fail, then applicant will have established that the inventor cannot be reached. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having *first hand* knowledge of the details. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

---

[1] MPEP 409.03(d).

As petitioners state that Dr. Horst Schumacher has attempted to locate joint inventor Keyes, petitioners should provide an affidavit or declaration of facts from Schumacher explaining in detail the efforts made to locate Keyes.

Additionally, if Keyes is located but refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If there an oral refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

D Wood

Douglas I. Wood
Petitions 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
OIW 08-01

Paper No. 9

KARIN H BUTCHKO, ESQ.
CARLSON GASKEY & OLDS PC
SUITE 350
400 W MAPLE ROAD
BIRMINGHAM, MI 48009

COPY MAILED

AUG 30 2001

OFFICE OF PETITIONS

In re Application of Maass, Bergmann, Herwig, Jutzi, Cardine, Grimm, Strauss, Drewniok, Killner, Wurm, Hof, Dobson, Schang, and Keyes Application No. 09/672,393 Filed: 28 September, 2000 Attorney Docket No. 60,130-899	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 24 August, 2001.

The petition is granted.

Petitioners have shown that the non-signing inventor, Gregory Keyes, cannot be found. Specifically, petitioners have shown that a copy of the application was sent to the non-signing inventor on several occasions, but the inventor failed to execute and return the declaration.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper 6

IP ADMINISTRATION
LEGAL DEPARTMENT, M/S 35
HEWLETT-PACKARD COMPANY
PO BOX 272400
FORT COLLINS, CO 80528-9599

COPY MAILED

JUN 15 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Hunter
Application No. 09/672,416
Filed: September 28, 2000
Attorney Docket No. 10991848-1

DECISION GRANTING
PETITION

This is a decision on the petition, filed on January 16, 2001, in effect requesting that the Notice Of Omitted Item(s) ("Notice"), mailed on November 15, 2000, be withdrawn and that the application be accorded the filing date of September 28, 2000.

The petition is GRANTED.

The application was deposited on September 28, 2000. On November 15, 2000, the Initial Patent Examination Division of the Office mailed the Notice stating that the application had been accorded a filing date of September 28, 2000, but that page 9 of the specification appeared to have been omitted.

In response, the present petition is filed wherein Petitioner argues that page 9 was not omitted from the application filed on September 28, 2000, and was in fact filed along with the remaining 17 pages of the specification on that date. In support, the present petition is accompanied by a copy of Petitioner's postcard receipt indicating receipt by the Office of 18 pages of specification for this application on September 28, 2000, and a "copy" of page 9 of the specification allegedly filed on the same date.

The specification currently in the Office file includes a written description on pages 1-8 and 10-12, claims 1-24 on pages 13-17, and an abstract on page 18. The file does not contain a page 9. Upon comparison of the actual papers in this file with the contents of the "copy" of page 9 supplied with the present petition, it is clear that this newly submitted page 9 is an integral part of the application and fits between pages 8 and 10. The information on Petitioner's postcard receipt further evidences that 18 pages of specification, which would have included a page 9, were filed on September 28, 2000.

In view of the above, it is concluded that the papers for this particular application were mishandled by the Office.

The petition is granted.

The Notice mailed on November 15, 2000 is hereby withdrawn.

The application is being forwarded to the Office of Finance for crediting the $130.00 petition fee to deposit account No. 08-2025.

Thereafter, the application will be returned to the Initial Patent Examination Division for further processing with a filing date of September 28, 2000, using the specification as filed on that date and supplemented by the page 9 submitted with the present petition.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

for

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

DEC 1 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

DANIELS DANIELS & VERDONIK, P.A.
Suite 200 Generation Plaza
1822 N.C. Highway 54 East
Durham, NC 27713

In re Application of
Dov BULKA, et al
Application No. 09/672,421
Filed: September 28, 2000
For: NEGATIVE CACHE MANAGEMENT SYSTEM AND METHOD

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/672,421	09/28/2000	Dov Bulka	40921-205583

CONFIRMATION NO. 8185
OC000000011507738
OC000000011507738

26108
DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

Date Mailed: 12/16/2003

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2003.

1 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.

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SHREWSBURY NJ 07702

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Aiken, et al.	:	DECISION
Application No. 09/672,512	:	ON PETITION
Filed: September 28, 2000	:	
Attorney Docket No. Aiken 5-11(LCNT/122347)	:	

This is a decision on the petition under 37 CFR 1.137(a), filed February 21, 2006, to revive the above-identified application.

This application became abandoned for failure to timely reply to the non-final Office action, mailed July 14, 2005, which set a three month, extendable period for reply. No reply having been submitted, this application became abandoned on October 15, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners have shown that the filing of a reply was unavoidably delayed due to an unexpected clerical error committed by a well-trained, reliable, experienced clerical employee.

The petition under 37 CFR 1.137(a) is **granted**.

Regarding finances, petitioners were charged a $1,500.00 Rule 137(b) petition fee. Since this petition is being granted under 37 CFR 1.137(a), only a $500.00 petition fee is required. Deposit account no. 20-0782 will be credited the balance, or $1,000.00.

The file is being forwarded to Technology Center 2617 for consideration of the amendment filed on February 21, 2006.

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
Office of the Deputy Commissioner
for Patent Examination Policy