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KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA, CA 91101-4710

Mail Date: 04/21/2010

Applicant	: David Allison Bennett	: DECISION ON REQUEST FOR
Patent Number	: 7664651	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/684,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1180** 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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FEB 15 2007

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application of	:
Bernard R. Brodeur et al	:
Serial No.: 09/684,883	: PETITION DECISION
Filed: October 6, 2000	:
Attorney Docket No.: 484112.417C1	:

This is in response to the petition under 37 CFR 1.181, filed December 8, 2006, requesting entry of a late filed declaration.

Applicants have submitted a new declaration to replace the original declaration filed with this application in order to correct priority data. This application was filed in paper format and was not converted to Image File Wrapper (IFW) format until October 17, 2003. It appears that in converting the application to IFW the original declaration was not included. However applicants provided an amendment to the specification at the time of filing which included a proper priority claim to provisional application 60/001,983.

Applicants state that parent application SN 08/913,362, which was the National Stage entry of PCT/CA96/00157 and which claimed benefit of priority to the provisional application above, contained a declaration which placed the priority claim to the provisional application under 35 U.S.C. 120 rather than 35 U.S.C. 119(e). The declaration was objected to by the examiner for the error and a new declaration was required. It appears that a copy of this declaration was submitted to the Office on filing of this application, but has somehow been misplaced.

There are several conditions for claiming benefit of an earlier filed application which are summarized in M.P.E.P. 201.11, as follows:

> There are several conditions for a later-filed application to receive the benefit of the filing date of a prior-filed application under 35 U.S.C. 120, 121, or 365(c), or, provided the later-filed application is not a design application (see 35 U.S.C. 172), under 35 U.S.C. 119(e). The conditions are briefly summarized as follows:
> (A) The prior-filed application must disclose the claimed invention of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112 for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e).
> (B) The later-filed application must be copending with the prior-filed nonprovisional application for a benefit claim under 35 U.S.C. 120, 121, or 365(c). For a benefit claim under 35 U.S.C. 119(e), the later-filed application must be filed not later than 12 months after the filing date of the prior provisional application.

(C) The later-filed application must contain a reference to the prior-filed application in the first sentence(s) of the specification or in an application data sheet, for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e).
(D) The later-filed application must be filed by an inventor or inventors named in the prior-filed application for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e).
(E) If the later-filed application is a utility or plant application filed on or after November 29, 2000, the reference to the prior-filed application must be submitted within the time period set forth in 37 CFR 1.78(a) (e.g., during the pendency of the later-filed application and within the later of 4 months from the actual filing date of the later-filed application or 16 months from the filing date of the prior-filed application) for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for benefit claim under 35 U.S.C. 119(e).
(F) If the prior-filed application is a provisional application filed in a language other than English, a benefit claim under 35 U.S.C. 119(e) requires the following to be filed in the provisional application: (1) an English language translation of the provisional application; and (2) a statement that the translation is accurate. See 37 CFR 1.78(a)(5)(iv).
(G) If the prior-filed application was an international application designating the United States of America, it must be entitled to a filing date in accordance with PCT Article 11. See 37 CFR 1.78(a)(1)(i).

None of these conditions require that the priority claim be set forth in the declaration, although it is routine to do so. Errors in the setting forth of domestic priority claims in the declaration are usually ignored and the declaration accepted as satisfying the provisions of 37 CFR 1.63 (which also makes no requirement for any claim for domestic priority, only identification of earlier filed foreign applications on which priority may be claimed).

Thus applicants' submission of a declaration with incorrect priority information on it did not and does not render the declaration defective since the correct priority information was set forth in the first line of the specification by amendment at the time of filing. However since the original copies of the declaration and the substitute declaration are missing from the file and applicants have filed copies thereof with this petition they will be entered in the file and the file will be considered complete.

The petition is **GRANTED**.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

DAVID S BIR
BROOKS & KUSHMAN
1000 TOWN CENTER
TWENTY-SECOND FLOOR
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MAR 20 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Joel E. Short et al.
Application No. 09/684,937
Filed: October 6, 2000
Attorney Docket No. NOMI 0119 PUS

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 **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.

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

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Paper No. 12

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Winand D'SOUZA
Application No. 09/684,949
Filed: October 10, 2000
For: PORTABLE ELECTRONICS DEVICE

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw of the Holding of Abandonment, filed January 30, 2004, which is being treated as a petition pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application was abandoned for failure to file a timely response to the non-final Office action mailed February 12, 2003. The application became abandoned May 13, 2003 after conclusion of the shortened statutory time period set in the outstanding Office action. A Notice of Abandonment was mailed December 24, 2003.

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

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

In support of the instant petition, petitioner has submitted a statement stating that the Office action was not received by the practitioner and that a search of the file jacket and the docket records of the application produced no evidence that the non-final Office action was received.

In view of the above, there is showing of non-receipt of the Office action mailed February 12, 2003.

The petition is **GRANTED.**

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The application file is being returned to the examiner to update the Office action as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for mailing of the updated action. The period for response will be set to run from the date of the new mailing.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications
(703) 305-9700

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Vogel et al.	:	
Application No. 09/684,960	:	ON PETITION
Filed: 10 October, 2000	:	
Attorney Docket No. PM268553	:	

This is a decision on the petition, filed on 7 May, 2004, which is treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 6 February, 2004, for failure to timely file corrected drawings as set forth in the Notice of Draftsperson's Patent Drawing Review mailed on 20 June, 2002 which were required by the Notice of Allowance mailed on 5 November, 2003, which set a three (3) month period for reply. Notice of Abandonment was mailed on 25 March, 2004.

Petitioner asserts that corrected drawings were timely filed in response to the Notice and non-final Office action mailed on 20 June, 2002. In support of the petition, petitioner submits a copy of the 16 sheets of drawings said to have been mailed to but not received in the U.S. Patent and Trademark Office. Also included is a postcard, bearing an Office-date stamp of 20 December, 2002, and identifying the application by application number, first named inventor's name, invention title, and attorney docket number. The postcard itemizes the filing of 16 sheets drawings as well as a three (3) month extension of time.

The 16 sheets of drawings filed on 20 December, 2002, have been located in the Official file.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 25 March, 2004, was sent in error and is vacated. No petition fee is due and none has been charged.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050822

DATE : August 22, 2005

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 6,820,023 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:

Apply the change in claim 21 regarding printing error. Do not apply the changes in claims 35, 36, 37 and 38 (that would change the scope of the claim invention).

SPE: John Barlow **Art Unit** 2863

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,820,023 B1

DATED : November 16, 2004

INVENTOR(S) : Klassen et al.

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

apply

In Claim 21, column 8, line 63, delete "pail" and insert therefor -- part --.

In Claim 35, column 10, line 16, delete "30" and insert therefor -- 34 --.

In Claim 36, column 10, line 19, delete "34" and insert therefor -- 30 --.

In Claim 37, column 10, line 22, delete "35" and insert therefor -- 36 --.

In Claim 38, column 10, line 25, delete "35" and insert therefor -- 36 --.

Do not apply changes

MAILING ADDRESS OF SENDER:
Robert B. Reeser III
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

PATENT NO. 6,820,023 B1

No. of additional copies

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.

JUL - 8 2005

JUL - 8 2005

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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Paper No. 22

SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH CO 80129

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APR 1 0 2002

OFFICE OF PETITIONS

In re Application of
Wayne R. Lumpkin et al
Application No. 09/685,284
Filed: October 10, 2000
Attorney Docket No. AVID.13-2

ON PETITION

This is a decision on the petition, filed by facsimile transmission on April 9, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being forwarded to Technology Center AU 3613 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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ST LOUIS MI 63102

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OFFICE OF PETITIONS

In re Randall, et al. Application No. 09/685,296 Filed: October 10, 2000 Patent No. 6,773,917 Issued: August 10, 2004	: : DECISION ON APPLICATION : FOR PATENT TERM ADJUSTMENT : AND : NOTICE OF INTENT TO ISSUE : CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705", filed August 10, 2003. Applicants request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred sixteen (116) to two hundred fourteen (214) days.

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 **two hundred fourteen (214) days**.

On October 2, 2003, 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 sixty-four (64) days. On August 10, 2004, the above-identified application matured into U.S. Patent No. 6,773,917. The patent issued with a Patent Term Adjustment of one hundred sixteen (116) days.

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

The Office determined a patent term adjustment of one hundred sixteen (116) days based on an adjustment for PTO delay of one hundred thirty-three (133) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), one hundred fourteen (114) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. §1.703(a)(6), and fifty-eight (58) days pursuant to 35 U.S.C. 154(b)(1)(B)(iii) and 37 C.F.R. §1.703(b), reduced by applicants' delays of sixty-nine (69) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b), and one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(10). The PTO delays of 133, 114, and 58 days, and applicant delay of 69 days, have been reviewed and found to be correct. The adjustments of 120 days is at issue.

The adjustment of 120 days for the filing of a "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT" has been found to be incorrect. Pursuant to 37 C.F.R. §1.704(e), the submission of an application for patent term adjustment is not considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, Applicants should have incurred no delay for this filing.

However, Applicants were not assessed delay for the amendment filed September 11, 2003. A final Office action was mailed on May 20, 2003. Pursuant to 37 C.F.R. §1.704(b), twenty-two (22) days of applicant delay should have been assessed.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322 is appropriate.

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 **two hundred fourteen (214) days** subject to any disclaimers.

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

Karin A Ferriter
for

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

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

JEFFREY S. STEEN ESQ.
DILWORTH & BARRESE LLP
333 EARLE OVINGTON BOULEVARD
UNIONDALE, NY 11553

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OFFICE OF PETITIONS

In re Application of :
Kurt Haas et al :
Application No. 09/685,310 : ON PETITION
Filed: October 10, 2000 :
Attorney Docket No. 1079-2 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 15, 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 May 16, 2002.

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

The application file is being forwarded to Technology Center 3700 for further processing.

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

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OFFICE OF PETITIONS

Lerner And Greenberg, P.A.
P O Box 2480
Hollywood, FL 33022-2480

In re Application of
Rusch, et al.
Application No. 09/685,361
Filed: October 10, 2000
Atty. Dkt. No.: GR 98 P 1507
Title: METHOD OF MAKING A SEMICONDUCTOR DEVICE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed May 9, 2001.

Petitioner has shown that inventor Yoichi Otani has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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OFFICE OF PETITIONS

In re Application of	:	
Rusch et al.	:	DECISION ON PETITION
Application No. 09/685,361	:	
Filed: October 10, 2000	:	
Atty Docket No. GR 98 P 1507	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR §1.137(a), filed December 12, 2006, in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice Regarding Drawings mailed March 26, 2003. This Notice set a non-extendable two-month time period for reply. No proper reply having been received and no extensions of time obtainable, the application became abandoned effective March 27, 2003. A Notice of Abandonment was mailed on July 11, 2003. (Applicants timely filed a response to the Notice of Allowability mailed August 21, 2002. The Notice of Abandonment erred in noting a failure to file new formal drawings as required in the Notice of Allowability).

It is noted that applicants filed a REQUEST FOR RESCISSION OF ABANDONMENT on July 28, 2003. Having received no response, applicant states that status inquiries were filed on August 11, 2005 and October 4, 2005 to no avail. Still, having received no response and after determining that their REQUEST FOR RESCISSION

OF ABANDONMENT was directed to the wrong Notice[1], on December 12, 2006, the instant petition was filed.

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. Petitioner asserts the abandonment was unavoidable because the Attorney for Applicants was unaware of both the Notice Regarding Drawings mailed March 26, 2003 and the corresponding deadline. In support thereof, practitioner submits a copy of counsel's date book for the relevant due date, a copy of the application file jacket, a declaration by counsel's staff supervisor corroborating non-receipt of the Notice, and a response to the Notice.

35 U.S.C. 133 provides that the Director may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Director 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 Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

The petition includes the required reply in the form of a replacement drawing sheet, payment of the petition fee and a showing of unavoidable delay. No terminal disclaimer is required. The facts and circumstances of the abandonment as set forth on petition have been considered, and it is concluded that petitioner has met his burden of establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to Publications for consideration of the response, a drawing sheet supplied on petition filed December 12, 2006, and in light thereof, for processing into a patent.

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[1] The Request for Rescission was based on having timely responded to the Notice of Allowability, and was not directed to non-receipt of the Notice Regarding Drawings. Thus, the request was not grantable.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

THOMAS A. BECK, ESQ.
26 ROCKLEDGE LANE
NEW MILFORD, CT 06776

COPY MAILED

APR 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Ali Afzali-Ardakani, et al. :
Application No. 09/685,414 : ON PETITION
Filed: October 10, 2000 :
Attorney Docket No. YOR920000360US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2003, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

On April 24, 2003, the undersigned telephoned petitioner Thomas A. Beck in reference to an authorization to pay the petition fee. Mr Beck informed the Examiner that a fax would be forthcoming. To date, no fax or documents regarding the authorization to pay the petition fee have been received by the USPTO. The application cannot be revived until such statement is received.

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

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. BECK, ESQ.
26 ROCKLEDGE LANE
NEW MILFORD, CT 06776

COPY MAILED

MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Ali Afzali-Ardakani, et al. :
Application No. 09/685,414 :
Filed: October 10, 2000 :
Attorney Docket No. YOR920000360US2 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 15, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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

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

This 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

UNITED STATES 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

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 West Adams St., Suite 2850
Chicago, IL 60606

JUN 10 2004

In re Application of:
Shunpei Yamazaki et al.
Serial No.: 09/685,698
Filed: October 10, 2000
Attorney Docket No.: SEL 213

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment filed on June 26, 2003. There is no fee for this petition.

The petition is GRANTED.

This application became abandoned for failure to timely file a proper reply to the Office letter (a restriction requirement) mailed on September 26, 2002. A Notice of Abandonment was mailed on June 26, 2003.

Petitioner asserts that he was called by the Patent Office on June 19, 2003 and was asked whether a response to the restriction requirement had been filed. Petitioner further asserts that neither the restriction requirement nor the Notice of Abandonment have been received.

A review of the application file record reveals that on April 19, 2001 the correspondence address was changed from a law firm in Chicago, Illinois to a different law firm in Atlanta, Georgia. This change of address was made via Customer Number. However, there is nothing in the application file record which indicates that such a change of address was ever requested. A telephone call was made by Special Programs Examiner Edward Westin to the petitioner on April 8, 2004. During that telephone call, petitioner confirmed that the correspondence address should be the Chicago, Illinois address.

The evidence is sufficient to establish that the restriction requirement was not received because it was mailed to an incorrect address.

The Notice of Abandonment mailed on June 26, 2003 is hereby VACATED and the holding of abandonment is withdrawn.

This application file is being forwarded to the Technical Support Staff of Technology Center

2800 for the remailing of the restriction requirement. A new shortened statutory period for reply will be set to expire one month from the date of remailing. The correspondence address has been changed back to the Chicago, Illinois address noted above.

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

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

COPY MAILED

APR 19 2007

OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 09/685,698	: DECISION GRANTING PETITION
Filed: October 10, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SEL 213	:

This is a decision on the petition, filed April 18, 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 March 12, 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 2813 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\Apr10\685698.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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOK, ALEX, MCFARRON, MANZO,
CUMMINTS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

COPY MAILED

FEB 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 09/685,698	:	DECISION GRANTING PETITION
Filed: October 10, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SEL 213	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew Peter Bradley et al	:	
Application No. 09/685,736	:	ON PETITION
Filed: October 11, 2000	:	
Attorney Docket No. 169.1867	:	

This is a decision on the petition, filed January 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2623 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20037

COPY MAILED
FEB 03 2003
OFFICE OF PETITIONS

In re Application of
Takashi Abe
Application No. 09/685,771
Filed: October 11, 2000
Attorney Docket No. Q60938

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 31, 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 December 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]

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRENT A JOHNSON (T2-7H)
ALLERGAN INC
2525 DUPONT DR
IRVINE CA 92612

COPY MAILED

DEC 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Elliott S. Klein, Alan T. Johnson,	:	
Andrew M. Standeven, Richard L.	:	
Beard, Samuel J. Gillett, Tien T.	:	
Duong, Sunil Nagpal, Vidyasagar	:	
Vuligonda, Min Teng, Roshantha A.	:	DECISION REFUSING
Chandraratna	:	STATUS UNDER § 1.47(a)
Application No. 09/685,828	:	
Filing Date: October 10, 2000	:	
Attorney Docket No. 17171 CIP4DIV	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 23, 2004.

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 inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) 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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration does not contain the citizenship of inventor Standeven.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRENT A JOHNSON (T2-7H)
ALLERGAN INC
2525 DUPONT DR
IRVINE CA 92612

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of Elliott S. Klein, Alan T. Johnson, Andrew M. Standeven, Richard L. Beard, Samuel J. Gillett, Tien T. Duong, Sunil Nagpal, Vidyasagar Vuligonda, Min Teng, Roshantha A. Chandraratna Application No. 09/685,828 Filing Date: October 10, 2000 Attorney Docket No. 17171 CIP4DIV	DECISION ACCORDING STATUS UNDER § 1.47(a)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a), filed February 22, 2005.

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

Applicants filed a petition under 37 CFR 1.47(a) on June 23, 2004. However, the petition was dismissed in a decision mailed on December 20, 2004. Applicants did not submit a 37 CFR 1.63 declaration listing the citizenship of nonsigning inventor Standeven.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor Yan at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREW M STANDEVEN
427 1/2 ORCHID AVE
CORONA DEL MAR CA 92625

COPY MAILED

MAR 0 4 2005

OFFICE OF PETITIONS

LETTER

In re Application of :
Elliott S. Klein, Alan T. Johnson, :
Andrew M. Standeven, Richard L. Beard, :
Samuel J. Gillett, Tien T. Duong, :
Sunil Nagpal, Vidyasagar Vuligonda, :
Min Teng, Roshantha A. Chandraratna
Application No. 09/685,828
Filed: October 10, 2000
Title: Methods of Identifying Compounds Having Nuclear Receptor Negative Hormone and/or Antagonist Activities

Dear Mr. Standeven:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Pamela A. Torpey
Hamilton Brook Smith & Reynolds
530 Virginia Rd PO Box 9133
Concord, MA 01742-9133
(978)341-0036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/11/09 Paper No.: _____

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 09685830 Patent No.: 7329410

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

1644
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

PAUL B. SIMBOLI
1900 CHARLESTON ROAD, BLDG. M10-3
P. O. BOX 7210
MOUNTAIN VIEW, CA 94039-7210

COPY MAILED

AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
Shi Kun Huang, et al. :
Application No. 09/685,940 :
Filed: October 10, 2000 :
Attorney Docket No. 5325-0166.30 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003 and supplemented on August 21, 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 2, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 3, 2002.

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

The application file is being forwarded to Technology Center 1600, Art Unit 1615 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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Paper No. 23

FEB 17 2004

OFFICE OF PETITIONS

LAW OFFICE OF HARRY J. MACEY
1301 SHOREWAY ROAD, SUITE 121
BELMONT CA 94002-4106

In re Application of
John D. Nguyen et al
Application No. 09/686,004
Filed: October 10, 2000
Attorney Docket No. 800195-44(6835-5791)

ON PETITION

This is a decision on the petition, filed February 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 20, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED Paper No. 7

APR 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
Kunin et al.	:	
Application No. 09/686,114	:	DECISION ON REQUEST TO
Filed: October 11, 2000	:	WITHDRAW AS ATTORNEY
For: METHOD AND APPARATUS FOR INTERNET TV	:	

This is a decision on the request to withdraw as attorney/agent of record filed on February 24, 2003.

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

The request is **GRANTED.**

All 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: David Kunin
eCable LLC
3939 E. 46th Street
Minneapolis, MN 55406

UNITED STATES 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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JAN 28 2005

OFFICE OF PETITIONS

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of	:	
Awele Ndili	:	
Application No. 09/686,125	:	DECISION DISMISSING PETITION
Filed: October 10, 2000	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 24286-705	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on November 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application.

The petition is **DISMISSED** as moot.

The instant application was filed on October 10, 2000. A petition under 37 CFR 1.78(a)(3) for acceptance of a delayed claim for priority under 35 U.S.C. § 120 is only applicable to those applications filed on or after November 29, 2000. See MPEP Section 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the $1,370 surcharge fee submitted will be refunded to petitioner's Deposit Account No. 23-2415.

Any inquiries concerning this decision may be directed to the undersigned at (571) 292-3204.

This matter is being referred to Technology Center AU 2142 for consideration of the amendment filed November 4, 2004 under the provisions of 37 CFR 1.312.

Sherry D. Brinkley
Petitions Examiner
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

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)
6950881	2005-09-27	09686125	2000-10-10	24286-705

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	/u.p. peter eng/	Date (YYYY-MM-DD)	2010-01-07
Name	U.P. Peter Eng	Registration Number	39666

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. 6950881
Issue Date: September 27,2005
Application No. 09686125
Filed: October 10,2000
Attorney Docket No. 24286-705

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

This is a decision on the electronic petition, filed January 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES A. RATTNER
12 HOMEWOOD LANE
DARRIEN CT 06820-6109

COPY MAILED

JAN 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Malmer et al.	:	
Application No. 09/686,136	:	ON PETITION
Filed: October 11, 2000	:	
Attorney Docket No. 1301U005	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

A copy of the Notice of Acceptance of Power of Attorney is enclosed.

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

Enclosure: Notice of Acceptance of Power of Attorney (2 pages)

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,148	10/10/2000	Hubert Koster	SEQ-2004-US2	5732

47328 7590 12/23/2004
BIOTECHNOLOGY LAW GROUP
658 MARSOLAN AVENUE
SOLANA BEACH, CA 92075

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 12/23/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. KOSTER ET AL.	:	
Appl No.: 09/686,148	:	**DECISION GRANTING**
Filed: October 10, 2000	:	**PETITION**
For: Stephanie L. Seidman	:	*37 CFR 1.48*
Fish & Richardson P.C.	:	
12390 El Camino Real	:	
San Diego, California 92130	:	
	:	

This is a decision on the petition under 37 CFR 1.48, filed September 28, 2004. The petition is granted.

Upon allowance of the pending claims, the file will be forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Gary Benzion
Supervisory Patent Examiner
Art Unit 1637
Patent Examining Group 1630

HELLER EHRMAN WHITE & MCAULIFFE LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122-1246

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/686,151	10/09/2000	3621	355		48	1	1

CONFIRMATION NO. 5735

CORRECTED FILING RECEIPT

OC000000012013972

Michael T Rossides
11167 E Mirasol Circle
Scottsdale, AZ 85259

Date Mailed: 03/03/2004

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

Applicant(s)

Michael T. Rossides, Scottsdale, AZ;

Domestic Priority data as claimed by applicant

This application is a CON of 08/706,762 08/28/1996 PAT 6,131,085
which is a CIP of 08/072,386 05/21/1993 PAT 5,359,508
which is a CIP of 08/327,704 10/24/1994 ABN
which is a CIP of 08/389,405 02/16/1995 ABN
which is a CIP of 08/526,497 09/11/1995 ABN
which is a CIP of 08/640,132 04/30/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2004

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

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Answer collection and retrieval system governed by a pay-off meter

Preliminary Class
705

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 10, 2002.

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Tomomi Momohara et al.
Application No. 09/686,200
Filed: October 5, 2000
Attorney Docket No. 81790.0189

This is a decision on the petition, filed October 7, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed October 10, 2002. A response was due not later than January 10, 2003. A response in the form of an amendment was filed April 10, 2003 with a three month extension of time request. On June 25, 2003 the applicant was advised that the amendment filed did not comply with 37 CFR 1.173(b) and that a supplemental paper correctly amending the reissue application was required. A one month or thirty days (whichever is longer) shortened statutory period for reply was set for reply. On February 13, 2004(certificate of mail date December 24, 2003), a five month extension of time request and an amendment were filed. In response thereof, a Notice of Non-Compliant Amendment was mailed March 19, 2004 with a one month or thirty days (whichever is longer) shortened statutory period for reply.

An amendment to the March 19, 2004 Notice was filed August 16, 2004 with a four month extension of time. On September 27, 2004, a Failure to Acceptably Respond to a Notice of Non Compliant Amendment was mailed. Since the period for reply ran from the Notice of Non-Complaint Amendment mailed March 19, 2004, the application became abandoned April 20, 2004.

The filing of the instant petition precedes the mailing of the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A supplemental amendment is submitted with the petition to revive. The application is being forwarded to Technology Center 2829 for processing of the amendment.

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.:20050720

DATE : July 20, 2005

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6,792,851

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 - 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: Andrew Hirshfeld **Art Unit** 2854

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

RONALD CRAIG FISH
FALK & FISH LLP
PO BOX 2258
MORGAN HILL, CA 95038

COPY MAILED

FEB 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Jari Artes	:	
Application No. 09/686,273	:	NOTICE
Filed: October 10, 2000	:	
Attorney Docket No. BER-016	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AMB 10-01

Paper No. 5

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO, CA 94303

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OCT 29 2001

OFFICE OF PETITIONS

In re Application of	:	
Winn	:	
Application No. 09/686,313	:	ON PETITION
Filed: October 10, 2000	:	
Attorney Docket No. PA1610US	:	
For: SYSTEM AND METHOD FOR CREATING	:	
A SAMPLE POOL FOR A WEB-BASED	:	
SURVEY	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2001, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 2, 2001 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed December 1, 2000. The Notice set a two (2) month non-statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. This decision precedes Notice of Abandonment.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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 04-05

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Marcus Winn	:	
Application No. 09/686,313	:	ON PETITION
Filed: 10 October, 2000	:	
Att'y Docket No. PA1610	:	

This is a decision on the petition filed on 14 March, 2005, which is treated as a petition under 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 9 March, 2005, for failure to timely submit the issue fee as required by the Notice of

---

[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)).

Allowance and Issue Fee Due mailed on 8 December, 2004, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The application will be referred to the Publishing Division for processing into a patent.

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

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
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TIMOTHY J. MAIER
MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA, VA 22314

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MAY 22 2007

OFFICE OF PETITIONS

In re Patent No. 6,468,211	:
Issue Date: October 22, 2002	:DECISION GRANTING PETITION
Application No. 09/686,315	:UNDER 37 CFR 1.378(c)
Filed: October 10, 2000	:
Attorney Docket No. ORCA-002	:

This is a decision on the petition, filed February 28, 2007, 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 October 22, 2002. The grace period for paying the first maintenance fee expired at midnight on October 22, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

If petitioner desires to receive future correspondence related to maintenance fees which may be mailed in the above-identified patent, a "fee address" (see PTO/SB/47) should be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 19 2004

Director's Office
Group 3700

Paper No. 10

In re Application of
Edward John Giblin *et al*
Application No. 09/686,325
Filed: October 11, 2000
Attorney Docket No. C6583(C)

: DECISION ON PETITION

This is a decision on the petition filed by on May 9, 2002, as resubmitted on March 25, 2004. The petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated May 23, 2001.. No fee is required for the petition.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely reply to the Office letter in question. Specifically, petitioners allege that a reply and a request for a two month extension of time were in fact filed. These papers have been located, and are present in the application file, having a filing date of January 4, 2002, but also having a 37 CFR 1.8(a) certificate of mailing date of October 23, 2001, a date within the period set for filing a reply to the May 23, 2001 Office letter, as extended. Office financial records confirm that the extension fee has been paid.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications examiner for entry of the amendment and petition for extension of time filed on January 4, 2002, certificate of mailing date October 23, 2001. Thereafter, the application will be forwarded to the examiner for immediate action.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

UNITED STATES 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 20 2004

#21

In re Application of	:	
Melanie Cobb et al	:	NOTICE OF WITHDRAWAL
Serial No. 09/686,,346	:	FROM ISSUE
Filed: October 10, 2000	:	UNDER 37 CFR 1.313(b)
For: TAO PROTEIN KINASE POLYPEPTIDES	:	
AND METHODS OF USE THEREFOR	:	

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 Ponnathapura 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

Mark B. Wilson
FULBRIGHT & JAWORSKI
600 Congress avenue Suite 2400
Austin TX 78701

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FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application	:	
Cobb, et al.	:	
Application No. 09/686,346	:	DECISION ON APPLICATION
Filed: October 10, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. UTSD:1276USC1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 8, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded zero (0) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent 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 September 6, 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 zero (0) days. On December 8, 2005 Applicants timely[1] submitted an application for patent term adjustment.

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

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment of seventy-three (73) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and applicants' delays of five (5) and eighty-seven (87) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once 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 **zero (0) days** (73 days of PTO delay, reduced by 92 (5+87) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-1212, as authorized. Applicants' request that the fee be waived due to PTO error is denied.[3]

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[1] Applicants filed the application for patent term adjustment prior to paying the issue fee.

[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).

[3] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6607150
Issue Date: August 19,2003
Application No. 09686377
Filed: October 11,2000
Attorney Docket No. YAGUCHI-0011

:

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

:

This is a decision on the electronic petition, filed January 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 January 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)
6,607,150	2003-08-19	09/686,377	2000-10-11	114466.00009

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	/Basam E. Nabulsi/	Date (YYYY-MM-DD)	2008-01-10
Name	Basam E. Nabulsi	Registration Number	31645

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 33

MAIL

JUN 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

In re Application of :
Oshima, et. al. :
Application No. 09/686,466 :
Filed: October 12, 2000 :
Attorney Docket No. 2000-1422 :

DECISION GRANTING
PETITION UNDER
37 CFR §1.183

This is a decision on the April 15, 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 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 June 30, 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 May 30, 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 June 30, 2003, a substitute specification was filed together with a supplemental amendment. Within the "REMARKS" section of the supplemental amendment, applicant states: "The specification and abstract have been amended and replaced with the attached substitute specification, which indicates the changes with bracketing and underlining as required for reissue applications. No new matter has been added." The first page of the substitute specification was marked with the notation (N.E.), i.e., Not Entered. However, on page 2 of the Office action mailed

December 23, 2003, the examiner states in paragraph 2, "The substitute specification and abstract filed on 06/30/03 has been entered."

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that "In several of the applications, the Examiner required a substitute specification because of the length of the specification and the number of amendments, and indicated by telephone that substitute specifications would be required in all of the related reissue applications." [1] The petitioner continues by stating "..in the parent reissue application 09/244,037 the replacement paragraph amendments were filed on April 30, 2003. Then in the Office Action mailed July 29, 2003, the Examiner required a substitute specification. Also in related reissue application 09/662,695, which like the present application is a reissue application of U.S. Patent 5,600,672 and a divisional application of reissue application 09/244,037, the replacement paragraph amendments filed on May 7, 2003 were denied entry and a substitute specification was required in the Office Action mailed May 27, 2003".

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 June 30, 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 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\09686466-183 waiver decision_sub_spec.doc

[1] No other record of the referenced telephone conversation can be found in this application file.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wenderoth Lind & Ponack
2033 K Street
Suite 800
Washington DC 20006

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OFFICE OF PETITIONS

In re Reissue Application No 09/686467 :
Filed: October 12, 2000 :
Original Patent No. 5,600,672 :
Issue Date: February 4, 1997 :
Original Filing Date: May 10, 1994 :
Patentee: Oshima
Attorney Docket No.: 2000_1420:

ON PETITION

This is a decision on the petition under 37 CFR 1.183 filed by facsimile transmission November 10, 2004, requesting suspension or waiver of 37 CFR 1.125(d), which regulation prohibits the filing of a substitute specification in an application for reissue

The petition is granted.

Petitioner asserts that the examiner has required substitute specifications in various other pending applications for reissue due to the length of the specification and the number of amendments, and further that the examiner has specifically indicated that all reissue applications related to the reissue of, as here, U.S. Patent No.5,600,672, would require substitute specifications.

It is agreed that due to the examiner's determination that a substitute specifications is herein appropriate, that justice would be served by waiver of 37 CFR 1.125(d). This waiver extends to any further substitute specification that might be required in this reissue application.

The $130 petition fee has been charged to deposit account No. 23-0975 as authorized.

This application is being brought to the attention of the Technology Center.

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
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)
6,516,526	2003-02-11	09/686,488	2000-10-10	080494-0104

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 S. Gundersen/	Date (YYYY-MM-DD)	2008-01-07
Name	Jeffrey S. Gundersen	Registration Number	47619

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 6516526
Issue Date: February 11,2003
Application No. 09686488
Filed: October 10,2000
Attorney Docket No. TRANSIT

:

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

:

This is a decision on the electronic petition, filed January 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 7,2008 . 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

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Alexandria, VA 22313-1450
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Date Mailed: August 14, 2009
Patent No. :7,548,851 B1
Ser. No. :09/686574
Issued : June 16, 2009
Inventor(s) :Jack Lau, et al.
Title :DIGITGAL MULTIMEDIA JUKEBOX

Request for Certificate of Correction

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

Assignees' names and addresses (assignment data, attorney agent/firm) 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: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Jeffrey A. Wyand
Leydig, Voit & Mayer, Ltd.
700 Thirteenth St., NW, Ste. 300
Washington, DC 20005-3960

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER, LTD.
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

MAILED

NOV 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Jack LAU, et al	:	
Application No. 09/686,574	:	ON PETITION
Filed: October 11, 2000	:	
Attorney Docket No. 4522/8	:	

This is a decision on the petition, filed August 4, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the Assignee **Perception Digital Technology (BVI) Limited, of Tortola, British Virgin Islands,** was omitted from Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to **Perception Digital Technology (BVI) Limited, of Tortola, Virgin Islands.**

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

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

---

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#15

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

MAILED
AUG 24 2004
TECHNOLOGY CENTER 2100

Paper No. 15

Frank A. Italiano
Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
1300 I Street, NW
Washington, DC 20005

In re Application of:
Paul J. Hinker
Application No. 09/686,628
Filed: October 12, 2000
For: AUTOMATIC CONVERSION OF SOURCE CODE FROM 32-BIT TO 64-BIT

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

This is a decision on the petition filed 12 May 2004 under 37 CFR §1.181, supplemented by the submission of 06 February 2004, 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 23 June 2003 (paper no. 6). A Notice of Abandonment was mailed 23 March 2004 (paper no. 13).

In support of the petition, Petitioner provides a copy of (1) a post card with a PTO stamp indicating receipt at the USPTO on 22 September 2003 of an amendment. The submission of 06 February 2004 included a copy of the amendment submitted 22 September 2003, signed by Frank A. Italiano and dated 22 September 2003.

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 established that a response was filed on 22 September 2003 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 processing of the amendment. After processing, the application will then be forwarded to the Examiner for appropriate action. It is noted that the Information Disclosure

Statements submitted on 15 October 2003, 20 January 2004, and 27 January 2004 have been received and entered in the application file.

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
DIW 04-03

Paper No. 13

DAVID A JACKSON ESQ
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

COPY MAILED

APR 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Friedman et al.	:	
Application No. 09/686,647	:	ON PETITION
Filed: 10 October, 2000	:	
Atty Dckt No. 600-1-087CIP/DIV/COM	:	

This is a decision on the petition filed on 1 February, 2001, and supplemented by facsimile on 8 April, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 10 October, 2000, with Figure 3 described in the specification. The petition was recently forwarded to the Office of Petitions, and the Office apologizes for the delay and regrets any inconvenience to petitioners.

The petition is **dismissed**.

The application was filed on 10 October, 2000. However, on 28 November, 2000, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 10 October, 2000, and advising applicants that Figure 3 described in the specification appeared to have been omitted.

In response, the present petition was filed on 1 February, 2001 (certificate of mailing date 25 January, 2001).

The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no drawing Figure 3 was filed with the original application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a

postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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.

On 8 April, 2003, petitioners supplied by facsimile a copy of their postcard receipt. Unfortunately, in this case, petitioners' postcard receipt fails to properly itemize the papers allegedly filed in this application. The postcard receipt does not itemize the number of sheets or figures of drawings filed, or the filing of any drawings at all. A postcard receipt will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

It is noted that the transmittal sheet located in the Official file states that this application is a continuation of prior application No. 09/686,647, and that the application as filed is a true copy of the prior application. Petitioners' assertion that Figure 3, which was omitted on filing and a part of a copending application mentioned on the application transmittal sheet is a part of the original disclosure, is not persuasive. A review of the record reveals that the specification, as filed, described drawings of Figures 1-23. The drawings as filed, however, do not contain Figure 3. Clearly Figure 3 was intended to be a part of this application. Whether Figure 3 was a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

the disclosure of this application.[2] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[3] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. Figure 3 was simply not filed in the USPTO on 10 October, 2000. Matter included in Figure 3 may be submitted as an amendment for consideration by the examiner under MPEP sections 608.02(p) and 608.04. In view of the above, the application cannot be accorded 10 October, 2000, as the application filing date with the drawing of Figure 3 as a part of the original disclosure.

Furthermore, the declaration of counsel's employee, Joan A. Santucci, that the papers filed on 10 October, 2001, included Figure 3 is not more persuasive than the contents of the official USPTO file. The statement was made nearly four (4) months after the events in question and recite personal remembrances of the preparation and filing of the application with the PTO. The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in the affiant's memory, particularly in view of the fact that affiant prepared and mailed similar papers to the PTO on a routine, daily basis. Likewise, the application transmittal sheet evidences, at best, petitioner's intent to file three (3) sheets of drawings.

Petitioner should also note that since the specification and drawings of a continuation or divisional application filed under 37 CFR 1.53(b) are not limited to a reproduction or "true copy" of the prior application, the safeguard in former 37 CFR 1.60(b) concerning the filing of an application lacking all of the pages of the specification or all of the sheets of drawings of the prior application has not been retained in 37 CFR 1.53(b). Nevertheless, an applicant may incorporate by reference the prior application, by including, in the application-as-filed, a statement that such specifically enumerated prior application or

---

[2] See MPEP 608.01(p).

[3] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

applications are "hereby incorporated by reference."[4] As such, petitioners' claim that the specification and drawings filed in the present application are a "true copy" does not amount to incorporation by reference of the prior application and does not permit petitioners to amend the continuing application to include subject matter in the prior application.

Nevertheless, it is noted that the specification states that the present application is a continuation-in-part of prior application No. 08/292,345 (now United States Patent No. 6,001,968) which is specifically incorporated by reference.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 3 is not new matter if it was a part of the disclosure of the prior application which was incorporated by reference.

Lastly, petitioners should note that there is no provision in 37 CFR 1.53(b) for requesting transfer of application papers from one application to another. Each application must be complete in itself.[5] Petitioners should therefore file Figure 3 as a preliminary amendment. If Figure 3 is filed as a preliminary amendment, it will be reviewed by the Examiner for new matter.

The application will be returned to Technology Center 1600 for further processing with a filing date of 10 October, 2000, using only the papers present in the USPTO on the date of deposit.

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[4] <u>See</u> MPEP 201.06(c).

[5] <u>See</u> 37 CFR 1.4(b).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080909

DATE : September 09, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 6,909,756

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:

Only the first correction of inserting --#-- before "3" has been approved.
The rest of the corrections change the scope of the claims, thus are denied.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : September 9, 2008

Patent No. : 6,909,756
Patent Issued : June 21, 2006
Docket No. : Q61105

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 .

The alleged error(s) column 6 line 24, and line 66 and column 8 line 2 the patent is printed in accordance with the record (the rest of the corrections change the scope of the claims). In view of the foregoing, your request, in this matter(s), is hereby denied.

A certificate of correction will be issued to correct the remaining error(s) noted in your request.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

RoChaun Johnson
Legal Instrument Examiner
(703) 308-9390 ext 119

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 or (703) 303-8309 (Receptionist)

Carl Pellegrini
2100 Pennsylvania Ave NW
Washington DC 20037

MFD/RJ

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080909

DATE : September 09, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 6,909,756

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:
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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:

Only the first correction of inserting --#-- before "3" has been approved.
The rest of the corrections change the scope of the claims, thus are denied.

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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APR 30 2001

OFFICE OF PETITIONS
A/C PATENTS

STANLEY R. MOORE, ESQ.
JENKENS AND GILCHRIST, P.C.
3200 FOUNTAIN PLACE
1445 ROSS AVE.
DALLAS, TX 75202

In re Application of Lee, et al. Application No. 09/687,048 Filed: October 13, 2000 Attorney Dkt. No. 45475-00026 For: LEADFRAME AND SEMICONDUCTOR PACKAGE WITH IMPROVED SOLDER JOINT STRENGTH	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 23, 2001.

The above-identified application was filed October 13, 2000 without an executed oath or declaration. The application names Tae Heon Lee, Young Suk Chung, and Mu Hwan Seo as joint inventors.

Accordingly, on November 24, 2000, a Notice to File Missing Parts of Application ("Notice") was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, the instant petition was filed.

The petition is **GRANTED**.

Petitioner has shown that inventor Mu Hwan Seo has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of attorney Paul W. Davis establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. The copy of the letter from the non-signing inventor's attorney acknowledge's the non-signing inventor's receipt of the application papers and said inventor's refusal to execute the declaration.

The above-identified application and accompanying 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.

As the response to the Notice was submitted two months after

Application No. 09/687,048

the period for reply given in the Notice, a two month extension of time has been charged to deposit account no. 10-0447, as per the authorization contained in the instant petition.

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.

Patricia Faison-Ball
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 30 2001

OFFICE OF PETITIONS
A/C PATENTS

MU HWAN SEO
263 RIVER VALLEY ROAD #06-06
ASPEN HEIGHTS, SINGAPORE

In re Application of :
Lee, et al. :
Application No. 09/687,048 :
Filed: October 13, 2000 :
Attorney Dkt. No. 45475-00026 :
For: LEADFRAME AND SEMICONDUCTOR :
PACKAGE WITH IMPROVED SOLDER JOINT :
STRENGTH :

LETTER

Dear Mu Hwan Seo:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
for

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

CC: STANLEY R. MOORE, ESQ.
JENKENS AND GILCHRIST, P.C.
3200 FOUNTAIN PLACE
1445 ROSS AVE.
DALLAS, TX 75202

UNITED STATES 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.

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED
SEP 01 2005
OFFICE OF PETITIONS

In re Application of	:	
Buechler et al.	:	DECISION ON APPLICATION
Application No. 09/687,051	:	FOR
Filed: October 12, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 030691.0008.CON1	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705," filed April 5, 2005. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from seven hundred fifty-one (751) days to seven hundred eighty-seven (787) 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 SEVEN HUNDRED EIGHTY-SEVEN (787) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 28, 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 751 days. The instant application for patent term adjustment was timely[1] filed prior to payment of the Issue

[1] PALM records indicate that the Issue Fee payment was received on April 6, 2005.

Fee. Applicant disputes the reduction of 36 days of PTA for applicant delay in filing a supplemental response on September 25, 2003.

A review of the record reveals that the response filed September 25, 2003, was a response filed after the filing of an appeal brief. It is concluded that this response is not a supplemental reply within the meaning of § 1.704(c)(8). Accordingly, the reduction of 36 days should not have been entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is SEVEN HUNDRED EIGHTY-SEVEN (787) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office will forward the file to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A Fries
per

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

Enclosure: Copy of Revised PAIR Screen

09345743.doc

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: JUL 29 2003

RPG
Paper No. 13

In re application of
H. Peter W. Hey et al.
Serial No. 09/687,053
Filed: Ocotber 12, 2000
For: DEPOSITION UNIFORMITY CONTROL FOR ELECTROPLATING APPARATUS, AND ASSOCIATED METHOD

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed January 16, 2003 for failure to pay the required issue fee in response to the Notice of Allowance, dated July 9, 2002. Applicants assert that they never received the Notice of Allowance.

DECISION

The petitioner asserts that the Office Action was never received, therefore the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that applicants did not received the said office action. The submitted evidence is a statement that applicants did not receive the Notice of Allowance, a statement that applicants' attorney reviewed the office records to confirm the non-receipt, and a copy of the docket record where the nonreceived Office Action would have been entered had it been received. Additionally, it appears that the Change of Address sent on October 12, 2000, was never properly entered.

Therefore, the Notice of Abandonment of November 20, 2002 is hereby withdrawn. Hence, the case is returned to pending status and will be returned to the LIE for 1) entering the Change of Address dated Ocotber 12, 2000, 2) mailing of a new Notice of Allowance (PTOL-85) and 3) for restarting of the time period for paying the required issue fee.

The Petition is GRANTED.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Patent Counsel BP
Applied Materials, Inc.
3050 Bowers Avenue
P.O. Box 450A
Santa Clara, CA 95052

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 09687130 Patent No.: 6978280 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
[redacted]

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: _____

/John E Breene/ 2162

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MAIL

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Martin J. Jaquez, Esq.
JAQUEZ & ASSOCIATES
750 B Street, Suite 2640
San Diego CA 92101

In re Application of	:	
Stanislaw Czaja et al	:	
Application No. 09/687,199	:	DECISION ON REQUEST TO
Filed: October 12, 2000	:	WITHDRAW AS ATTORNEY
For: **METHOD AND APPARATUS FOR INITIATING A REVERSE LINK INTERGENERATIONAL HANDOFF IN A CDMA COMMUNICATION SYSTEM**	:	

This is a decision on the request to withdraw as attorney/agent of record filed on November 25, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

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.

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

cc: LSI LOGIC CORPORATION
1551 McCarthy BLVD.
Milpitas, CA 90535

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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MAIL

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Stanislaw Czaja et al	:	
Application No. 09/687,201	:	DECISION ON REQUEST TO
Filed: October 12, 2000	:	WITHDRAW AS ATTORNEY
For: **METHOD AND APPARATUS FOR INITIATING A REVERSE LINK INTERGENERATIONAL HANDOFF IN A CDMA COMMUNICATION SYSTEM**	:	

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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

Gregory Giotta Ph D
Vice President and Chief Legal Counsel
ONYX Pharmaceuticals Inc
3031 Research Drive
Richmond CA 94806

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OFFICE OF PETITIONS

In re Application of
Braselmann
Application No. 09/687,230
Filed: October 13, 2000
Attorney Docket No. ONXY 1027-DIV

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 28, 2002, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to file a proper reply within three months to the final Office action mailed December 18, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 19, 2002. A Notice of Abandonment was mailed on August 26, 2002.

The Notice of Appeal filed October 28, 2002, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $920.00 extension of time fee submitted with the petition on October 28, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will not be charged to petitioner's deposit account.

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 1600.

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

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST. PAUL, MN 55120

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AUG 26 2003

OFFICE OF PETITIONS

In re Application of	:
ALEXOPOULOS et al	:DECISION GRANTING FILING
Application No. 10/600,730	:DATE OF JUNE 20, 2003
Filed: June 20, 2003	:
Attorney Docket No. HITG.028USD1	:

This is a decision on the petition under 37 CFR 1.10(d), filed July 15, 2003, requesting that the above-identified application be accorded a filing date of June 20, 2003, rather than the presently accorded filing date of June 21, 2003, which latter date appears on the copy of the Express Mail label submitted with the instant petition.[1]

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 20, 2003. In support, petitioner has supplied a copy of his USPS receipt dated June 20, 2003, at 4:13 p.m., which bears, *inter alia*, Express Mail label No. EV 309495695 US." The transmittal for the instant application contains a certificate of mailing under 37 CFR 1.10 with the same Express Mail label number appearing on the corporate account statement.

Further, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on June 20, 2003 at the Minneapolis, MN USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 20, 2003. Accordingly, the

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[1] While the USPTO computer database does not yet indicate that a filing date other than June 20, 2003 has been assigned to this application, based on the image file wrapper copy of the transmittal for the instant application and the evidence supplied by petitioner herein; i.e., a copy of a stamped return post card bearing a June 21, 2003 receipt date, the application would, in all likelihood, be assigned a filing date of June 21, 2003, rather than the June 20, 2003 date requested by this petition.

instant application is entitled to a filing date of June 20, 2003, and has been so accorded.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Frances Hicks at (703) 305-8680.

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

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JAN 27 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Naguib et al.	:
Application No. 09/687,238	:
Filed: October 13, 2000	:
Attorney Docket No. Calderbank 2000-0238	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 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 the Issue Fee Transmittal with issue fee payment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

Petitioner submitted $1300.00 for payment of the petition fee. However, the petition fee is $1500.00. Accordingly, an additional $200.00 was charged to petitioner's deposit account as authorized.

A Correspondence Address Change Form was received with the instant petition. However, the address listed on the form did not match the address associated with Customer Number 26652, which was also listed on the form. Currently, the address has been changed to reflect the address associated with the Customer Number. A courtesy copy of this decision will be mailed to the other address listed on the Correspondence Address Change Form; however, the Office will mail all future correspondence solely to the address of record unless notified otherwise.

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

Cc: AT&T CORP.
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KONRAD RAYNES & VICTOR
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Howard J. Glaser et al	:	
Application No. 09/687,414	:	ON PETITION
Filed: October 12, 2000	:	
Attorney Docket No. STL920000091US1	:	

This is a decision on the petition, filed August 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 25, 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 2192 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 09-07

Paper No: __

NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO ND 58103

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Asplin	:	DECISION
Application No.: 09/687,445	:	
Filing Date: 13 October, 2000	:	
Attorney Docket No. H-ASPL007	:	

This is a decision on the petition filed on 14 May, 2007, and considered as a request to withdraw the holding of abandonment 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 **DISMISSED**.

NOTES:

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

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[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.**

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 27 September, 2006, with reply due absent extension of time on or before 27 December, 2006;
- the application went abandoned by operation of law after midnight 27 December, 2006;
- the Office mailed a Notice of Abandonment on 26 April, 2007;
- on 14 May, 2007, Petitioner (prior Counsel) filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the final Office action, and made a statement of non-receipt and provided a copy of the docket record for the instant application, however, Petitioner failed to provide all of the documentation required under the guidance at MPEP §711.03(c), which is discussed below and provides in pertinent part:

* * *

> ... 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. (Emphasis supplied.)

* * *

thus, this detail requires satisfaction and clarification to comply with the requirements under the rule;

---

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

- the is an indication that the file contains a returned copy of the 27 September, 2006, non-final Office action, and while the envelope bears an indication the post box was closed, the number that notation appears to be "581082024," rather than Petitioner's listed box of 581082842–and this matter would require clarification as well before the petition could be granted.

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. 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 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.[3]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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

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

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

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

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.[10]

The commentary at MPEP §711.03(c) provides:

* * *

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

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

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[9] 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.

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

* **

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

* * *

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 not satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[11]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the 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

[11] See fee schedule: http://www.uspto.gov/main/howtofees.htm

grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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[14]) 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

Encl.
27 September, 2006, non-final Office action

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

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

[14] 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,445	10/13/2000	Charles Lee Asplin	ASPL-007	1343

7590 09/27/2006

Curtis V. Harr
Registered Patent Attorney
P. O. Box 2842
Fargo, ND 58108-2842

EXAMINER
ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 09/27/2006

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

Office Action Summary	Application No.	Applicant(s)	
	09/687,445	ASPLIN, CHARLES LEE	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- 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 *11 September 2006*.

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) *12-21* 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) *12-21* 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/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Raymond Addie

RAYMOND ADDIE
PRIMARY EXAMINER

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. 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.

Claims 12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flock # 1,943,914 in view of Asplin # 5,860,763.

Flock discloses a method of lifting and leveling a slab of concrete (6) using compressed air to compact the sunken soil (5) below the slab (6), and to lift the slab, to stabilize and hold said slab in a desired position, the method comprising the steps of:

Drilling a hole in said slab (6).

Attaching said gun nozzle (13) to said slab (6), and at least partially within said drilled Hole, via guide sleeve (18).

Supplying an aggregate storage tank (not shown) filled with an aggregate, such as earth clay etc., said storage tank being connected to an injector gun (19) via an elongate fluid tight hose (9). See Col. 2.

Supplying a compressed air source in fluid tight connection with said aggregate storage tank such that an aggregate is discharged under pressure to compact the subsoil and raise the sunken pavement (6). See Col. 3, lns. 88-110.

Mixing the aggregate and compressed air in order to;

Deliver said compressed sand/air mixture to said injector gun (19) and through a nozzle (13); and into a cavity created below the sunken slab (6). See Col. 3, lns. 19-44.

Lifting said slab (6), momentarily, with said compressed air; to height at least equal to a desired final level with the inherent internal pressure of said compressed air such that a settle cavity is formed, and back pressure is applied to the bottom surface of said slab (6) to raise said slab.

Leveling said ground with said aggregate by said compressed air, such that said aggregate may move about said settle cavity and fill said cavity, thus supporting the bottom surface of said slab (6).

Repeating said lifting and leveling steps until said slab is at said desired level and resting upon said aggregate, thus injected.

What Flock does not disclose is the specific use of well dried mason's sand. However, Asplin teaches well dried mason's sand is advantageously used to fill a cavity below sunken pavement slabs (52), by compressed air injection, utilizing an injector gun (42). See Col. 4.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the method of raising sunken pavement, of Flock, with the step of utilizing mason's sand to fill a cavity formed below sunken pavement, as taught by Asplin, in order to form a compressed foundation layer of aggregate, to support said slab in a raised, level position.

3. Claims 13-16, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flock '914 in view of Asplin '763 as applied to claims 12, 17 above, and further in view of Lightle # 5,795,108.

Flock in view of Asplin disclose essentially all that is claimed, to include the use of a hopper (32) and various valve assemblies (34, 30, 32, 56) to control movement and placement of the pressurized aggregate, such as dirt, or sand.

Flock further discloses the steps of drilling a plurality of holes (11) and filling each hole with pressurized aggregate until the pavement is leveled and then patching the hole (11) with cement or the like. See cols. 3-4.

Flock also discloses the injector gun can be any of several different embodiments having different shapes, sizes and nozzle openings can be disposed in various orientations, relative to the supply hose (9). What Flock in view of Asplin do not disclose are the various structural features of the pressurized delivery system. However, Lightle teaches the steps of:

Providing a high-volume, compressed air source and plurality of valve assemblies (30, 32, 56) for controlling the flow of sand through the distribution systems. Said valve assemblies increasing the safety of pressurized system, and providing sufficient pressure for placing aggregate in a desired location, through an aggregate distribution system. See Lightle Cols. 2-3.

Response to Arguments

3. Applicant's arguments filed 9/11/06 have been fully considered but they are not persuasive.

Applicant argues the Flock 1,943,914 patent as this patent does not use air to lift with but rather uses air behind a plastic material such that the plastic material is injected between the slab and the ground to lift the slab.

However the Examiner does not concur.

Flock explicitly discloses in page 1, lns. 19-48 "the invention is carried out by pumping...forcing...plastic material under the sagging structure to lift the latter into its proper...position...this is preferably is accomplished by...forcing the filling material downward...to react under pressure against the earth's subsoil and the lower surface of the pavement in a manner to raise the latter...the sunken portion of the pavement being movable under pressure".

Therefore the argument is not persuasive and the rejection is maintained.

In response to Applicant's argument that Flock uses a material that is "substantially incompressible" as evidence Flock does not disclose using air pressure to lift the sunken slab. However, specifically because Flock uses a "substantially incompressible" material, the air pressure present in the device to "pump or otherwise force" the filling material into the hole; the inherent air pressure in the tube (9) is released upon exiting the nozzle (15), thus separating from the "incompressible material" that compacts the subsoil, forces the lower surface of the pavement to raise to the desired height, under pressure. As explicitly disclosed in Page 1, lns. 25-40.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

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).

Raymond Addie
Primary Examiner
Group 3600

9/22/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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MAY 1 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Takafumi Fujisawa et al	:	
Application No. 09/687,464	:	ON PETITION
Filed: October 13, 2000	:	
Attorney Docket No. 72760 (00P290PS-US00)	:	

This is a decision on the petition, filed May 13, 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takafumi Fujisawa et al :
Application No. 09/687,464 :
Filed: October 13, 2000 :
Attorney Docket No. 72760 (00P290PS-US00) :

This is a decision on the petition, filed July 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 19, 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 2837 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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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Takafumi Fujisawa et al	:
Application No. 09/687,464	:
Filed: October 13, 2000	:
Attorney Docket No. 727 (OOP290PS-US00)	:

This is a decision on the petition, filed October 21, 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 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2837 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July, 19 2005

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6,887,674

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:

I was the examiner on this case and am now an SPE, so felt it appropriate to approve, although I am not SPE of 1646.

SPE

1649
Art Unit

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Joe A. Brock II Esq.
Martine, Penilla & Kim LLP
Suite 170
710 Lakeway Drive
Sunnyvale, CA 94085

MAILED
APR 0 4 2005
Technology Center 2100

In re Application of: Lin, et al. Application No. 09/687,699 Attorney Docket No. ADAPP171 Filed: October 12, 2000 For: METHOD AND APPARATUS FOR DEVICE DISCOVERY	))))))	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on January 31, 2005.

Although a Notice of Abandonment has not yet been mailed, the instant application became abandoned for failure to timely respond to the Office action mailed March 2, 2004 on September 3, 2004. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response and amendment with a certificate of mailing under 37 CFR § 1.8(a) on June 2, 2004; transmittal letter; and a post card receipt identifying the contents of the response, which includes a USPTO receipt date of June 7, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED**. The Notice of Abandonment is hereby **WITHDRAWN**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response (copy filed January 31, 2005). The application will then be forwarded to the examiner for prompt action on the merits.

Brian L. Johnson
Special Programs Examiner 4/1/05
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

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JJGJR.: 02-05

Paper No: 12

CHERNOFF VIHAUER
MCCLUNG & STENZEL
1600 ODS TOWER
601 S W SECOND AVENUE
PORTLAND OR 97204

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of
Zeng, et al. :
Application No. 09/687,727 :
Filing Date: 8 December, 2000
Attorney Docket No. TAL: 7146.089 :

This is a decision on the petition filed on 27 January, 2005, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 8 September, 2003, with reply due absent extension of time on or before 8 October, 2003;
- the instant application went abandoned after midnight 8 October, 2003;
- the Office mailed a Notice of Abandonment on 2 December, 2004;

- with the instant petition (with fee authorization), Petitioner submits the required reply (election), alleges timely transmittal of the reply to the Office, and supports the allegation with evidence of a transmittal letter/form with election bearing a certificate of mailing.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The file is forwarded to Technology Center 2600 for further processing in due course.

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

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

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

Kirk M. Nizum
Burns Doane Swecker & Mathis LLP
P.O. Box 1404
Arlington, Virginia 22313-1404

MAIL

JUN 0 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Mukesh Patel	)	
Application No. 09/687,777	)	
Filed: October 13, 2000	)	**DECISION ON PETITION FOR**
For: JAVA HARDWARE	)	**ACCELERATED EXAMINATION**
ACCELERATOR USING	)	**UNDER M.P.E.P. §708.02(VIII)**
MICROCODE ENGINE	)	

This is a decision on the petition, filed June 7, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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 fails on two counts. The petition is deficient in that **(1)** there is no statement that Applicant believes all claims are presented to a single invention and that Applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and **(2)** there is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c). The submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter is patentable over the references***. In addition, although Applicant provides a discussion of over fifty references, there is no indication that these are the references "deemed most closely related" to the subject matter encompassed by the claims. It is recommended that Applicant submit a supplemental petition, which corrects the above deficiencies and provides a discussion limited to the references "deemed most closely related".

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.

Pinchus M. Laufer

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

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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Mukesh Patel :
Application No. 09/687,777 : ON PETITION
Filed: October 13, 2000 :
Attorney Docket No. 032481-021 :

This is a decision on the petition under 37 CFR 1.313(c), filed May 5 and May 9, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The Revocation and Power of Attorney, filed on May 9, 2005, has not been accepted. The power of attorney is from an assignee and the Certificate required by 37 CFR 3.73(b), that must accompany any and all such filings, has not been received.

The correspondences filed on May 5 and May 9, 2005 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Vani Moodley appearing on the correspondences 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. A courtesy copy of this decision is being mailed to Mr. Moodley, the petitioner herein. However, until

[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).

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 (571) 272-3220.

This matter is being referred to Technology Center AU 2122 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

Attachment: Notice Regarding Power of Attorney

cc: HAHN AND MOODLEY
SUITE 180
800 W EL CAMINO REAL
MOUNTAIN VIEW, CA 94040

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP27
AUG 11 2008
PATENT & 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

COPY MAILED

JUL 11 2008

OFFICE OF PETITIONS

COMPLETED

Charles E. Rohrer, PC
P.O. Box 20067
Boulder, CO 80308

In re Patent No. 6,653,004 :
Issue Date: November 25, 2003 :
Application No. 09/687,792 : ON PETITION
Filed: October 12, 2000 :
Patentee(s): Jeffrey Lewis Barber :

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

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition lacks item (1) above. In this regard, it is not apparent whether the statement of unintentional delay is signed by someone authorized to sign a petition under 37 CFR 1.378(d), which states that 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[1], or other party in interest.

A review of the United States Patent and Trademark Office (USPTO) assignment records fail to show that the original owner, Jeffrey Lewis Barber, conveyed an assignment of all or part of his right, title and interest in the above patent to Vairex Corporation. While USPTO assignment records show a Confirmatory License agreement between Vairex Corporation and the United States Department of Energy[2], petitioner should note that the license agreement is not an assignment of patent rights[3]. Therefore, if the instant petition is signed on behalf of the assignee, the assignment documents from the original owner to the current assignee must be submitted for recordation along with the $40

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

[2] The Confirmatory License agreement is recorded in the USPTO at reel/frame number 013136/0263.

[3] See MPEP 301 (iii).

recordation fee and compliance with 37 CFR 3.73(b) must be satisfied. A blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address 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.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $465 maintenance fee and the $1,640 surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

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

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

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

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

Telephone inquiries should be directed to Denise Williams at (571) 272-8930.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

cc: Ski M. Milburn
Vairex Corporation
3026 Valmont Road
Boulder, CO 80301

OIPE
AUG 11 2008
PATENT & TRADEMARK OFFICE

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PATENT & TRADEMARK OFFICE

PTO/SB/96 (01-08)
Approved for use through 07/31/2008. 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.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 8

Baker Botts LLP
30 Rockefeller Plaza, 44th Floor
New York, NY 10112

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SEP 2 2 2003
OFFICE OF PETITIONS

In re Application of	:	
Roger N. Anderson et al.	:	
Application No. 09/687,813	:	ON PETITION
Filed: October 13, 2000	:	
Attorney Docket No. AP32394070050.1386	:	

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 Notice to File Missing Parts (Notice) mailed November 24, 2000, which set a period for reply of Two Months (2) 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 February 25, 2001.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6494636
Issue Date: December 17,2002
Application No. 09687849
Filed: October 11,2000
Attorney Docket No. 918-P-3

:

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

:

This is a decision on the electronic petition, filed September 3,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6,494,636	2002-12-17	09/687,849	2000-10-11	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Albert W. Watkins reg. #31,676/	Date (YYYY-MM-DD)	2007-09-03
Name	Albert W. Watkins	Registration Number	31676

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

#3

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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
09/687,932	10/13/2000	William A. Lyon	3354

22886
AFFYMETRIX, INC
3380 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

FORMALITIES LETTER

OC000000005640067

Date Mailed: 12/27/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is 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 $ 130.**

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

02/13/2001 BNGUYEN1 00000057 010431 09687932
01 FC:105 130.00 CH

√ SECTOR #

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → [+]

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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

OIPE JC143 FEB 0 9 2001 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/687,932
Filing Date	10/13/2000
First Named Inventor	LYON
Group Art Unit	1645
Examiner Name	TBD
Attorney Docket Number	3354

Total Number of Pages in This Submission: 11

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [x] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) *(please identify below)*:

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	Philip L. McGarrigle, Reg. No. 31,395
Signature	Philip McGarrigle
Date	2/2/2001

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 2/2/2001

Typed or printed name	Doreen Coffredo		
Signature		Date	2/2/2001

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

PTO/SB/17 (11-00)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE JC143
FEB 0 9 2001
PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 170

Complete if Known	
Application Number	09/687,932
Filing Date	10/13/2000
First Named Inventor	LYON
Examiner Name	TBD
Group / Art Unit	1645
Attorney Docket No.	3354

METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 01-0431

Deposit Account Name: AFFYMETRIX, INC.

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filling fee	

SUBTOTAL (1) ($) 0

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims		-20**	= 0	X		=	0
Independent Claims		-3**	= 0	X		=	0
Multiple Dependent				X		=	0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	130	123	130	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40.00
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify)	

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 170

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	Philip L. McGarrigle	Registration No. Attorney/Agent)	31,395	Telephone	(408) 731-5021
Signature				Date	2/2/2001

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John W. Carpenter
Crosby Heafey Roach & May
PO Box 7936
San Francisco, CA 94120-7936

MAILED

JAN 3 1 2005

Technology Center 2100

In re Application of:
Sean MERCER, et al.
Application No. 09/687,987
Filed: October 13, 2000
For: METHOD AND APPARATUS FOR INTEGRATING PHONE AND PDA USER INTERFACE ON A SINGLE PROCESSOR

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 27, 2004.

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

The request is **GRANTED**.

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

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Berry & Associates P.C.
9255 Sunset Boulevard
Suite 810
Los Angeles, CA 90069

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.:10-07

Paper No:__

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OCT 09 2007

OFFICE OF PETITIONS

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

In re Application of
Sisley
Application No. 09/688,006
Filing Date: 13 October, 2000
Attorney Docket No.: 1142.001US1

DECISION

This is a decision on the petition filed on 24 November, 2006, under 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay.

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 under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 January, 2006, with reply due under a non-extendable deadline on or before 30 April, 2006;

[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.**

- the application went abandoned after midnight 30 April, 2006;
- the Office mailed the Notice of Abandonment on 24 August, 2006;
- on 24 November, 2006, Petitioner filed the instant petition (with fee), the reply in the form of an amendment, and made the statement of unintentional delay.

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

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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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] 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]))

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.

[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.

As to the Allegation
of Unintentional Delay

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

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) 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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[9] 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.

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

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APR 2 6 2005

OFFICE OF PETITIONS

In re Application	:	
Lu, et al.	:	
Application No. 09/688,017	:	DECISION ON APPLICATION
Filed: October 13, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 20054-001110US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed February 23, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to forty-two (42) days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED**. Applicants did not pay the required $200 PTA fee, and as such, the Office will not look into the matter on the merits. Applicants are given **THIRTY (30) DAYS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Please note that The Office will hold in abeyance any request that additional PTA be accorded for the failure to issue the patent within three years until after the patent issues, even where applicants filed an RCE.[1]

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

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.

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

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determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application	:	
Lu, et al.	:	
Application No. 09/688,017	:	DECISION ON APPLICATION
Filed: October 13, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 20054-001110US	:	

This is a decision on the "RESUBMISSION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed April 29, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to forty-two (42) 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. However, a review of the application reveals that applicants should have been assessed additional delay of ninety four (94) 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 zero (0) days, including three hundred fifty-eight (358) days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent. Because Applicants did not pay the $200 fee set forth in 37 C.F.R. § 1.18(e) with the instant petition, applicants should pay this fee on request for reconsideration. A copy of this decision should accompany applicants' written request.

On December 16, 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 February 23, 2005, applicants 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 forty-two (42) days. However, because applicants did not include the required fee, the application was dismissed in a decision mailed on April 26, 2005. Applicants were given thirty (30) days to respond.

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 an adjustment for PTO delay of two hundred (200) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delays of eighty-three (83), eighty-nine (89), and ninety-two (92) days, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

However, applicants assert additional PTO delay of one hundred six (106) days for the failure on the part of the Office to issue the patent within three years of its filing. **The Office does not assess whether or not any additional PTA is accorded in this instance until the issue date is established, even where applicants filed an RCE.**[1]

Furthermore, applicants should have been assessed additional delay for their late filing of the RCE. A final Office action was mailed on July 28, 2003. Applicants did not file a proper response until they filed an RCE on January 28, 2004 (made timely

---

[1] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

for purposes of avoiding abandonment by obtaining a three month extension of time). Accordingly, pursuant to 37 C.F.R. § 1.704(b), ninety-two (92) days of applicant delay should have been assessed. In addition, applicants filed an IDS two days later on January 30, 2004. Pursuant to 37 C.F.R. § 1.704(c)(8), two (2) days of applicant delay should have been assessed for the filing of this supplemental reply.

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** (200 days of PTO delay and 358 (83+89+92+92+2) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 20-1430, as authorized.

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.

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
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UR
PAPER NO. 7

FEB 19 2002

In re Application of Mark R. Holl et al. Serial Number: 09/688,055 Filed: October 13, 2000 For: LIQUID ANALYSIS CARTRIDGE	: : : : : :	DECISION ON PETITION UNDER M.P.E.P.708.02 VIII

This is in response to the petition filed, June 28, 2001(including a reminder letter filed January14, 2002) requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

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

Greenlee, Winner and Sullivan, P.C.
5370 Manhattan Circle, Suite 201
Boulder, CO 80303

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Mailed: 8/1/06

In re application of	:	
Sugihara et al.	:	DECISION ON
Serial No. 09/688,077	:	PETITION
Filed: October 13, 2000	:	
For: Cell Potential Measurement Apparatus Having A Plurality Of Microelectrodes	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed August 2, 2002. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed July 2, 2002, be withdrawn. A review of the file shows that applicant's petition was never addressed. The notice of abandonment that was mailed out August 2, 2002 is also being considered in this petition decision.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee). The examiner mailed an office action on December 3, 2001 and applicants filed a response on June 3, 2002 with a petition for an extension of time. Applicant has provided proof that the Office received the response.

The Petition is **GRANTED**.

The abandonment is withdrawn in view of applicant's response of June 3, 2002.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

E. Thomas Wheelock
Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, California 94304-1018

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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304-1018

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OFFICE OF PETITIONS

In re Application of
Sugihara et al.
Application No. 09/688,077
Filed: October 13, 2000
Atty Docket No. 369212000131

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Notice of Omitted Item(s) in a Nonprovisional Application," filed January 11, 2001. The Office of Petition was recently forwarded the petition for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On October 13, 2000, applicants deposited the application as a reissue application of U.S. Patent No. 5,563,067. On November 27, 2000, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, indicating that the Office accord the application a filing date; however, it appeared that page 8 of the specification (description and claims) had been omitted.[1]

In response, on January 11, 2001, applicants filed the present petition. Applicants asserted that the requested page 8 of the specification did not exist. Applicants averred that on October 13, 2000, they filed a copy of U.S. Patent No. 5,563,067 in its entirety, which consisted of a cover page (including abstract), 7 pages of specification, and 12 pages of drawings.

On January 24, 2005, the examiner mailed a nonfinal Office action, stating that the disclosure was objected to because the specification deposited on October 13, 2000, was absent from the application. The examiner requested applicants to provide the USPTO with a copy of the missing specification deposited on October 13, 2000.

On February 23, 2005, applicants submitted a copy of U.S. Patent No. 5,563,067 (8 pages), which included the omitted pages of specification. Pursuant to 37 CFR 1.173(a): "An application for reissue must contain the entire specification, including the claims, and the drawings of the patent." "No new matter shall be introduced into the application." Id. As this is a reissue application, there is no

[1] The Notice of Omitted Item(s) incorrectly stated that page 8 of the specification was missing. Rather, the Notice should have indicated that the specification (i.e., 8 paged copy of the printed patent) was omitted on filing the reissue application.

question as to what applicants intended to file as the specification. The late submission of the specification does not raise any issue of new matter.

On petition under 37 CFR 1.182, the Director may excuse the delay in supplying the specification of the patent, and accord the application the requested filing date. Accordingly, the petition is **granted**.

The filing of the present petition was not necessitated by any error on the part of the USPTO. Therefore, the $130.00 petition fee will be charged to Deposit Account No. 03-1952, as authorized.

The Office of Initial Patent Examination is directed to processing the present reissue application with a **filing date of October 13, 2000**, using the copy of specification supplied on February 23, 2005.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 4

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FOLEY & LARDNER
3000 K STREET N.W., SUITE 500
WASHINGTON, D.C. 20007-5109

In re Application of
Hans J. Hansen
Application No. 09/688,089
Filed: October 16, 2000
Attorney Docket No. 18733/1002

ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed December 15, 2000, requesting, in effect, that page 27 be entered into the application and accorded the filing date of the instant application, i.e., October 16, 2000.

The application was deposited on October 16, 2000. However, on December 5, 2000, applicant was notified that page 27 of the specification was missing.

In response, on December 15, 2000, the present petition was filed. Petitioner asserts that page 27 was in fact submitted with the application on October 16, 2000. In support of this assertion, petitioner has submitted a copy of a stamped return post card which acknowledges receipt by the PTO on October 16, 2000, of, inter alia, "Specification, claims and abstract 44 pages."

The application file currently contains 43 pages, which includes the specification, claims, and abstract. Page 27 is currently missing from the specifcation. However, if missing page 27 were included, this would constitute 44 pages, including specification, claims and abstract.

MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." In view the acknowledged receipt of the 44 pages of the specification, claims and abstract (which would include page 27), the omitted page 27 will be accepted as having been present on filing. Accordingly, the Notice mailed December 5, 2000 is vacated.

The $130 fee charged to petitioner's deposit account for the instant petition is unnecessary and will be credited to petitioner's Deposit Account No. 19-0741 in due course.

The application is being forwarded to the Initial Patent Examination Division for further processing with an indication that page 27 was present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
Hans J. Hansen	:
Serial No.: 09/688,089	: WITHDRAWAL OF ATTORNEY
Filed: October 16, 2000	:
Attorney Docket No.: 018733-1002	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6379874
Issue Date: April 30,2002
Application No. 09688126
Filed: October 16,2000
Attorney Docket No. CRF D-2235

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

This is a decision on the electronic petition, filed May 11,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 11,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6379874	2002-04-30	09688126	2000-10-16	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William Greener/	Date (YYYY-MM-DD)	2010-05-11
Name	William Greener	Registration Number	38165

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. 5

ELMAN TECHNOLOGY LAW, P.C.
P.O. BOX 209
SWARTHMORE, PA 19081

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Henry Tien Lo :
Application No. 09/688,277 : ON PETITION
Filed: October 12, 2000 :
Attorney Docket No. L37-048 :

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

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

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 21, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2001. A Notice of Abandonment was mailed February 13, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines

v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner asserts that the delay was caused by non-receipt of the Notice.

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

Though the above showing is directed towards a practitioner, pro se applicant should provide a similar showing to the best of their ability.

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

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

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

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

ELMAN TECHNOLOGY LAW, P.C.
P.O. BOX 209
SWARTHMORE, PA 19081

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Henry Tien Lo :
Application No. 09/688,277 : ON PETITION
Filed: October 12, 2000 :
Attorney Docket No. L37-048 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 21, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2001. A Notice of Abandonment was mailed February 13, 2003.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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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MAY 23 2006

OFFICE OF PETITIONS

Henry Tien Lo
3609 Melonies Drive., #96
Las Vegas, NV 89103

In re Application of:	:	
LO, Henry, Tien	:	DECISION ON PETITION FOR
Application No.: 09/688,277	:	REVIVAL OF ABANDONED
Filing Date: October 12, 2000	:	APPLICATION UNDER
Attorney's Docket No.: None	:	37 CFR 1.137(b)
For: CARD GAME	:	

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed February 08, 2006.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed March 23, 2005, which set a shortened statutory period of reply of three (3) months. On September 22, 2005, applicant filed an amendment in response to the final Office action, accompanied by the fee for a three-month extension of time. However, as indicated in the Advisory Action mailed November 01, 2005, the amendment was not sufficient to place the application in condition for allowance. Accordingly, the application became abandoned as of midnight on September 23, 2005.

On February 08, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Request For Continued Examination (RCE), with fee (the amendment previously filed on September 22, 2005 satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of March 23, 2005 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

It is noted that applicant has requested a refund of the petition fee because a Notice of Abandonment was mailed herein on 29 September 2005, prior to the issuance of the Advisory Action on November 01, 2005. It is not clear why the mail date of the Notice of Abandonment should entitle applicant to a refund of the present petition fee; no argument has been presented to suggest that the holding of abandonment is improper. As discussed above, the present application became abandoned due to the failure of applicant's September 22, 2005 post-final submission to put the application in condition for allowance; any subsequent petition to revive the application under 37 CFR 1.137(b) must meet all the requirements for such a petition, including payment of the petition fee. The mail date of the Notice of Abandonment is irrelevant with respect to this requirement. Accordingly, a refund of the petition fee is not appropriate under the present circumstances.

The application file is being referred to Technology Center AU 3711

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,321	10/13/2000	Richard J. Helferich	19529-030	9368

6449 7590 12/29/2005

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

EXAMINER
NGUYEN, THUAN T

ART UNIT	PAPER NUMBER
2685	

DATE MAILED: 12/29/2005

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.

09.688.321

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

DECISION ON PETITION UNDER 37 C.F.R. §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed 11/08/05 under 37 C.F.R. §1.97(d) for consideration of an information disclosure statement filed after [✓] Allowance [ ] Final has been:

[✓] 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 but will not be considered by the examiner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Webb et al.	:	
Application No. 09/688,441	:	LETTER REGARDING
Filed: October 16, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0112300/141	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 12, 2008. Applicants disclose that 36 days should be subtracted from the patent term adjustment pursuant to 35 U.S.C. 154(b) for a total adjustment of three hundred fifty (350) days, instead of three hundred eighty-six (386) days.

The request for review of the 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 three hundred fifty **(350)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 17, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 386 days. Applicants disclose that they took in excess of three months to respond to the final Office action mailed April 7, 2003.

Applicants are correct. A request for continued examination (RCE) and amendment were not filed in response to the Office

action mailed April 7, 2003 until August 12, 2003. As such, a period of reduction of 36 days should have been entered pursuant to 37 C.F.R. §1.704(b).

In view thereof, the initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred fifty (350) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 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 fee charged has been refunded to Deposit Account No. 02-1818, as authorized.

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 PALM Screen

PALM INTRANET

Day : Monday
Date: 4/7/2008
Time: 08:34:51

PTA Calculations for Application: 09/688441			
Application Filing Date:	10/16/2000	PTO Delay (PTO):	519
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	133
Post-Issue Petitions:	0	Total PTA (days):	350
PTO Delay Adjustment:	-36		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
107	04/07/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		36	
98	12/17/2007	MAIL NOTICE OF ALLOWANCE			
97	12/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
96	12/12/2007	DOCUMENT VERIFICATION			
95	12/12/2007	ISSUE REVISION COMPLETED			
94	12/10/2007	NOTICE OF ALLOWABILITY			
93	11/04/2007	DATE FORWARDED TO EXAMINER			
92	10/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
91	11/04/2007	DATE FORWARDED TO EXAMINER			
90	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
89	11/04/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
88	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
87	09/27/2007	ELECTRONIC REVIEW			
86	09/26/2007	EMAIL NOTIFICATION			
85	09/25/2007	MAIL FINAL REJECTION (PTOL - 326)			
84	09/18/2007	FINAL REJECTION			
82	07/10/2007	DATE FORWARDED TO EXAMINER			
81	07/02/2007	RESPONSE AFTER NON-FINAL ACTION		20	75
80	07/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
79	06/23/2007	ELECTRONIC REVIEW			
78	06/22/2007	EMAIL NOTIFICATION			
77	06/20/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

76	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
75	03/12/2007	MAIL NON-FINAL REJECTION	24		66
74	03/08/2007	NON-FINAL REJECTION			
73	12/22/2006	DATE FORWARDED TO EXAMINER			
72	10/16/2006	APPEAL BRIEF FILED			
71	12/26/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
70	12/22/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
69	12/01/2006	NOTICE -- DEFECTIVE APPEAL BRIEF			
68	11/29/2006	APPEAL BRIEF REVIEW COMPLETE			
67	11/29/2006	DATE FORWARDED TO EXAMINER			
66.1	10/16/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
66	10/16/2006	APPEAL BRIEF FILED			
65	10/16/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	05/16/2006	NOTICE OF APPEAL FILED			
63	02/23/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
62	02/23/2006	MAIL FINAL REJECTION (PTOL - 326)	275		58
61	02/21/2006	FINAL REJECTION			
60	10/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
59	02/11/2005	DATE FORWARDED TO EXAMINER			
58	01/24/2005	RESPONSE AFTER NON-FINAL ACTION		25	53
57	01/24/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	02/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
55	01/24/2005	WORKFLOW INCOMING AMENDMENT IFW			
54	01/11/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	09/30/2004	MAIL NON-FINAL REJECTION			
52	09/28/2004	NON-FINAL REJECTION			
51	07/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
50	07/19/2004	REFERENCE CAPTURE ON IDS			
49.7	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	45
49	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
48	07/29/2004	DATE FORWARDED TO EXAMINER			
47	07/19/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
46	07/29/2004	DATE FORWARDED TO EXAMINER			
45	07/19/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	33
44	07/29/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
43	07/19/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	07/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
41	07/19/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	07/02/2004	MAIL ADVISORY ACTION (PTOL - 303)			
39	06/30/2004	ADVISORY ACTION (PTOL-303)			
38	04/24/2001	REFERENCE CAPTURE ON IDS			
37	06/22/2004	DATE FORWARDED TO EXAMINER			
36	05/20/2004	AMENDMENT AFTER FINAL REJECTION			
35	05/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
34	05/10/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	03/18/2004	MAIL FINAL REJECTION (PTOL - 326)			
32	03/17/2004	FINAL REJECTION			
31	01/16/2004	DATE FORWARDED TO EXAMINER			
30	01/12/2004	RESPONSE AFTER NON-FINAL ACTION			
29	10/31/2003	MAIL NON-FINAL REJECTION			
28	10/29/2003	NON-FINAL REJECTION			
27	08/21/2003	DATE FORWARDED TO EXAMINER			
26	08/12/2003	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
25	08/21/2003	DATE FORWARDED TO EXAMINER			
24	08/12/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)			
23	08/21/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
22	08/12/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	08/11/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
20	04/07/2003	MAIL FINAL REJECTION (PTOL - 326)			
19	04/03/2003	FINAL REJECTION			

18	01/23/2003	DATE FORWARDED TO EXAMINER			
17	12/20/2002	RESPONSE AFTER NON-FINAL ACTION		57	13
16	12/20/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	12/20/2002	INCOMING LETTER PERTAINING TO THE DRAWINGS			
14	10/23/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
13	07/24/2002	MAIL NON-FINAL REJECTION	220		-1
12	07/23/2002	NON-FINAL REJECTION			
11	06/24/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	09/27/2001	CASE DOCKETED TO EXAMINER IN GAU			
9	04/24/2001	PRELIMINARY AMENDMENT			
8.7	04/24/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/24/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/17/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	04/03/2001	APPLICATION DISPATCHED FROM OIPE			
5	04/03/2001	APPLICATION IS NOW COMPLETE			
4	12/07/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/07/2000	CORRESPONDENCE ADDRESS CHANGE			
2	11/02/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/16/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application	:	
Anderson, et al.	:	
Application No. 09/688,459	:	DECISION ON APPLICATION
Filed: October 13, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 2852-C	:	

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(B) OF THE PATENT TERM ADJUSTMENT DETERMINATION INDICATED IN THE NOTICE OF ALLOWANCE," filed May 5, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifty-six (356) days to four hundred two (402) 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 **four hundred two (402)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 26, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred fifty-six (356) days. On May 5,

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 four hundred two (402) days.

Applicants assert entitlement to a patent term adjustment of four hundred two (402) days on the basis that the PTO improperly assessed PTO delay of three hundred ninety-six (396) days due to an interference proceeding pursuant to 37 CFR 1.703(c)(2). Applicants state that the PTO delay should have been assessed at four hundred forty-two (442) 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 three hundred fifty-six (356) days based on an adjustment for PTO delay of five (5) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and three hundred ninety-six (396) days pursuant to 35 U.S.C. 154(b)(1)(C)(i) and 37 C.F.R. 1.703(c)(2), reduced by applicants' delays of forty-three (43) days and two (2) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The PTO delay of 5 days and applicants' delays of 43 and 2 days have been reviewed and found to be correct. The adjustment of 396 days is at issue.

The adjustment of 396 days has been found to be incorrect. The application file reveals that the Office mailed a notice suspending prosecution on July 15, 2002. The next Office action was not mailed until September 30, 2003. Accordingly, pursuant to 37 C.F.R. § 1.703(c)(2), PTO delay should have been assessed as 442 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **four hundred two (402) days** (447 (442 + 5) days of PTO delay, reduced by 45 (43 + 2) days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 09-0089, as authorized.

The instant patent will issue more than 3 years after the filing date of the application, October 13, 2000. Applicants are advised that any days of delay which overlap with (are not in excess of) the 402 days of patent term adjustment already

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[1] PALM records indicate that the issue fee was paid on June 21, 2004.

accorded will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). However, applicants are still eligible for PTA pursuant to 37 C.F.R. § 1.703(a)(6).

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
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

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Paper No: __

LAW OFFICE OF JAMES TROSINO
92 NATOMA STREET, SUITE 211
SAN FRANCISCO CA 94105

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Keeney, et al.	:	
Application No. 09/688,475	:	ON PETITION
Filed: 16 October, 2000	:	
Attorney Docket No. EFIM1177	:	

This is a decision on a petition filed on 8 May, 2006, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings requirement) mailed on 2 September, 2005, with reply under a non-extendable deadline on or before 2 December, 2005;
- the instant application went abandoned by operation of law after midnight 2 December, 2005;
- the Office mailed a Notice of Abandonment on 21 April, 2006;
- Petitioner filed the instant petition on 8 May, 2006, with fee, and, *inter alia*, reply in the form of the drawings due, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply,

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

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

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

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

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)
6428847	2002-08-06	09688555	2000-10-16	PRMX0009-100

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	/Paul Hammond/	Date (YYYY-MM-DD)	2008-03-11
Name	Primaxx, Inc., by Paul Hammond, President		
Enter Reel and Frame Number		Remove	
Reel Number	011255	Frame Number	0518
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6428847
Issue Date: August 6,2002
Application No. 09688555
Filed: October 16,2000
Attorney Docket No. PRIMAXX

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

This is a decision on the electronic petition, filed March 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6656361	2003-12-02	09/688,611	2000-10-15	1495.002

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Pacer K. Udall/	Date (YYYY-MM-DD)	2009-10-06
Name	Pacer K. Udall	Registration Number	50976

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. 6656361
Issue Date: December 2,2003
Application No. 09688611
Filed: October 15,2000
Attorney Docket No. OSMO-8

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

This is a decision on the electronic petition, filed October 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 6,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,673,242	2004-01-06	09/688,612	2000-10-15	1495.004

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	/Pacer K. Udall/	Date (YYYY-MM-DD)	2009-10-06
Name	Pacer K. Udall	Registration Number	50976

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. 6673242
Issue Date: January 6,2004
Application No. 09688612
Filed: October 15,2000
Attorney Docket No. OSMO-10

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

This is a decision on the electronic petition, filed October 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 1 0 2006

Director's Office
Office of Patent Publication

PHILMORE H. COLBURN II
CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of :
ROFRANO, JOHN J. :
Application No. 09/688,715 : **DECISION ON PETITION**
Filed: October 16, 2000 :
Attorney Docket No. SOM920000011US1 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181(a), received in the United States Patent & Trademark (USPTO) on January 30, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee as required in the Notice of Allowance mailed June 30, 2005. The Notice of Abandonment indicates that the submitted fee of $0 is insufficient. A balance of $1,400 is due.

The Office acknowledges receipt of Part B Fee(s) Transmittal on August 29, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 09-0459. Unfortunately, on August 31, 2005, when an attempt was made by the Office of Finance to charge the fee, 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Philmore H. Colburn II
Cantor Colburn LLP
55 Griffin Road South
Bloomfiled, CT 06002

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MAY 2 6 2006

OFFICE OF PETITIONS

In re Application of
John J. Rofrano
Application No.: 09/688,715
Filed: October 16, 2000
Attorney Docket No.: SOM920000011US1
For: SYSTEM AND METHOD FOR AN ADAPTIVE SALES INTERVIEW SEARCH TECHNIQUE

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the Renewed Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 filed February 22, 2006. As stated in the previous decision dated 10 February 2006, due to applicant's non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn. Therefore, the renewed petition under 37 CFR 1.181 is dismissed without prejudice.

Additionally, applicant submitted a petition to revive under 37 CFR 1.137(b) on February 22, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fees in a timely manner in reply to the Notice of Allowance mailed June 30, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on September 30, 2005.

On February 22, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) petition fee; (2) the required statement of unintentional delay; and (3) the required in the form of the payment of the issue and publication fees. Accordingly, the issue and publication fees payment are accepted as having been unintentionally delayed.

The application is being referred to the Office of Publications

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

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 18 2001

OFFICE OF PETITIONS
A/C PATENTS

Mark D. Chuey
Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

In re Application of :
Fiore :
Application No. 09/688717 : DECISION ACCORDING STATUS
Filing date: 10/16/2000 : UNDER 37 CFR §1.47(b)
For: ARBITRATED LOOP PORT :
SWITCHING

This is in response to the "Petition Under 37 CFR § 1.47(b)," filed on Oct. 16, 2000.

The petition is granted.

The above-identified application will be processed with Storage Technology Corporation as the party in interest under 35 U.S.C. § 118, and Edward Fiore as the inventor.

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

After this decision is mailed, the application will be forwarded to Group Art Unit 2664 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-3159.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Edward J. Fiore
7861 151th Lane N.W.
Ramsey, MN 55303

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JUL 18 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Fiore
Application No. 09/688717
Filing date: 10/16/2000
For: ARBITRATED LOOP PORT SWITCHING

Dear Mr. Fiore:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein the sole inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-9285. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Mark D. Chuey
Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#14

WESTMAN CHAMPLIN & KELLY
SUITE 1600 - INTERNATIONAL CENTRE
900 SOUTH SECOND AVENUE
MINNEAPOLIS MN 55402-3319

COPY MAILED
AUG 25 2004
OFFICE OF PETITIONS

In re Application of	:	
Li Deng et al	:	
Application No. 09/688,764	:	ON PETITION
Filed: October 16, 2000	:	
Attorney Docket No. M61.12-0325	:	

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2655 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTMAN CHAMPLIN & KELLY
SUITE 1600 - INTERNATIONAL CENTRE
900 SOUTH SECOND AVENUE
MINNEAPOLIS MN 55402-3319

COPY MAILED

AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Li Deng et al :
Application No. 09/688,764 :
Filed: October 16, 2000 :
Attorney Docket No. M61.12-0325 :

ON PETITION

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2655 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

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OFFICE OF PETITIONS

TIMOTHY R. SCHULTE
STORAGE TECHNOLOGY CORPORATION
ONE STORAGETEK DRIVE, MS-4309
LOUISVILLE, CO 80028-4309

In re Application of	:	DECISION MOTING JOINDER OF
Lane, et al.	:	INVENTOR AND PETITION
Application No. 09/688,784	:	UNDER 37 CFR 1.47(a) MOOT
Filed: October 16, 2000	:	
Attorney Docket No. 99-002-NSC	:	
For: INFORMATION NETWORK	:	
VIRTUAL BACKPLANE	:	

This is in response to the petition under 37 CFR 1.47(a) filed March 30, 2001 and supplemented May 16, 2001 and May 21, 2001.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

Telephone inquiries should 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

UNITED STATES 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. 6547656
Issue Date: April 15,2003
Application No. 09688887
Filed: October 16,2000
Attorney Docket No. 5600

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

This is a decision on the electronic petition, filed June 19,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6547656	2003-04-15	09688887	2000-10-16	1630-1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Walter W. Duft/	Date (YYYY-MM-DD)	2008-06-19
Name	Walter W. Duft	Registration Number	31948

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

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,315,685 :
Issued: January 1, 2008 :
Application No. 09/688,901 : ON PETITION
Filed: October 16, 2000 :
Attorney Docket No: **ELBX 17.815** :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed October 24, 2008. The request is being treated as a petition 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.33d 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 in the amount of $1825.00 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper 14

MAILED
OCT 20 2003

OFFICE OF DIRECTOR
GROUP

SNELL & WILMER L.L.P.
1920 Main Street, Suite 1200
Irvine, CA 92614-7230

In re Application of	)	
Shinobu Furuta et al.	)	
Application No.09/688,970	)	DECISION ON PETITION
Filed: October 16, 2000	)	
Attorney Docket No. 62478-2900	)	

This is a decision on the petition, filed July 14, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of September 25, 2002. A Notice of Abandonment was mailed on July 3, 2003.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of an amendment along with one sheet of amended drawings and a letter to the Official Draftsperson by the Patent and Trademark Office (Office) on December 27, 2002. A copy of the response was submitted with the petition

The response was not of record in the application file at the time the Notice of Abandonment was mailed but has since been matched with the application file. The application is not abandoned in fact.

In view of the above stated reasons, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. Inconvenience to petitioner is regretted.

The application file is being forwarded to the Technical Support staff for entering the amendment. From there, the application file will be returned to the examiner for further examination.

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

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)
6,682,907	2004-01-27	09/688,990	2000-10-17	

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	/Benoit CASTEL/	Date (YYYY-MM-DD)	2008-08-08
Name	Benoit CASTEL	Registration Number	35041

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6682907
Issue Date: January 27,2004
Application No. 09688990
Filed: October 17,2000
Attorney Docket No. 03495.0199

:

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

:

This is a decision on the electronic petition, filed August 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

DOUGLAS H. TULLEY, JR.
KIMBERLY-CLARK WORLDWIDE, INC.
PATENT DEPARTMENT
401 NORTH LAKE STREET
NEENAH, WI 54956

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APR 2 5 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Boggs, et al.
Application No. 09/689,048
Filed: October 12, 2000
Attorney Docket No. 13,934.1

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 26, 2001, to reflect the name change of the seventh named inventor, Sandy Chi-Ching Tan.

The petition is **dismissed as moot**.

Pursuant to 37 CFR 1.48(f)(1): "If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship." Furthermore, Section 201.03 of the Manual for Patent Examining Procedure states: "Where the first-filed executed oath or declaration was filed on or after December 1, 1997 and sets forth an inventive entity which is different from the inventive entity initially set forth at the time of the filing of the application, the actual inventorship of the application will be taken from the executed oath or declaration." See 37 CFR 1.41(a)(1).

The Office notes that the above-identified application, as filed on October 12, 2000, did not contain an executed oath or declaration in compliance with 37 CFR § 1.63. Therefore, the later submission of an executed oath or declaration on January 23, 2001, which set forth the desired name change of the seventh named inventor, acted to correct the earlier identification of inventorship.

The $130.00 petition fee is unnecessary, and thus, will be credited to Deposit Account No. 11-0875.

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

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

Christina T. Tartera

Christina T. Tartera
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091127

DATE : November 27, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7122335

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND
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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 17 2004

DARBY & DARBY PC
805 THIRD AVENUE
NEW YORK NY 10022

: PETITION DECISION

In re Application of
Peter St Georges-Hyslop et al
Serial No.: 09/689,159
Filed: October 12, 2000
Attorney Docket No.: 1034/1F808-US7

This is in response to the petition under 37 CFR 1.181, filed August 19, 2004, for withdrawal of abandonment of the above identified application based on evidence that the reply was timely filed.

A review of the file history shows that the examiner mailed an Final Rejection to applicants on October 21, 2003, setting a three month shortened statutory period for reply. Applicants responded to the Final Rejection on March 15, 2004. An Advisory action was mailed by the examiner on April 14, 2004. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on August 10, 2004.

Applicants state that a Request for Continued Examination (RCE) was timely filed in response to the Advisory action. Applicants have supplied a copy of the RCE and request for extension of time with a copy of the check for the appropriate fees. Applicants have also supplied a copy of the express mail receipt dated April 21, 2004 , a copy of the docket report with a signed statement from the docket clerk . In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will then be forwarded to the examiner for further action.
The check has not been processed and as such the extension of time fee of $530.00 and the RCE fee of $770.00 will be charged to applicants deposit account 04-0100.

Should there be any questions about this decision please contact Jean F. Vollano by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Jean F Vollano for
Jasemine Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Steven C. Lieske
Oppenheimer Wolff & Donnelly LLP
45 South Seventh Street
3400 Plaza VII
Minneapolis, MN 55402

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
KARLOVAC et al. :
Application No.: 09/689,178 :
Filing Date: October 11, 2000 :
Docket No.: 20528-13 :
For: METHOD FOR SYSTEM :
CONSTRAINT BASED SELECTION :
FOR DESIGN COMPONENTS :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on May 6, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner, in reply to the Notice of Allowance mailed December 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 7, 2005 (since March 6, 2005 was a Sunday). A Notice of Abandonment was mailed on April 15, 2005.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee, paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

The notice of loss of small entity status in this application is acknowledged. Accordingly, all future fees paid in connection with this case must be paid at the large entity rate.

Inquiries concerning this decision should be directed to George Dombroske at 571-272-3283.

This application is being referred to the Publishing Division.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 9

DATE : 4/8/2010

TO SPE OF : ART UNIT 3635 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/689,290 Patent No.: 6,345,474

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

SPE _____ ART UNIT 3635

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 9

DATE : 4/8/2010

TO SPE OF : ART UNIT 3635 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/689,290 Patent No.: 6,345,474

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

SPE _____ ART UNIT 3635

UNITED STATES 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 PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:
Paul E. Beckmann et al	:
Application No. 09/689,337	: DECISION GRANTING PETITION
Filed: October 12, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02103-390001	:

This is a decision on the petition, filed January 23, 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 December 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\689337.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

John H Sherman Legal Department
Intermec Technologies Corporation
550 2nd Street S E
Cedar Rapids IA 52401

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of
James D. Bennett
Application No. 09/689,339
Filed: October 12, 2000
Attorney Docket No. 38237A

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts mailed November 30, 2000, which set a two-month period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on January 31, 2001. A Notice of Abandonment was mailed on October 1, 2002.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). The filing fee, petition fee, claim fees, and a surcharge, totaling $2,200.00, have been charged to Deposit Account No. 14-1190, as authorized by petitioner.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 24

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P O BOX 1539
KING OF PRUSSIA, PA 19406-0939

COPY MAILED

MAR 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kevin H. Storm et al :
Application No. 09/689,483 :
Filed: October 12, 2000 :
Attorney Docket No. P32685 :

This is a decision on the petition under 37 CFR 1.314, filed December 10, 2003, to defer issuance of the instant application into a patent.

The petition is granted.

Petitioner requests deferral of issuance in order to have the examiner consider a "Second Supplemental Information Disclosure Statement under 37 C.F.R. § 1. 97(c)" and for mailing of an initialed Form PTO-1449. It is also noted that, on December 1, 2003, petitioner filed an amendment under 37 CFR 1.312, bearing a certificate of mailing date of November 26, 2003.

In view of the above, issuance of this application is being deferred until such time as the examiner has mailed out an initialed Form PTO-1449 indicating that the Information Disclosure Statement acknowledged as having been received in the USPTO on March 11, 2003 has been considered and, further, until such time as the examiner has taken appropriate action on the amendment under 37 CFR 1.312, filed December 1, 2003.

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 1615 for appropriate action on petitioner's request for an initialed PTO-1449 for the references filed on March 11, 2003 and for consideration of the amendment under 37 CFR 1.312, filed December 1, 2003.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

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FEB 1 2 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Marina G. Portnova
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025-1026

In re Application of: Charles Graham et al.	)	**DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT**
Application No. 09/689,500	)	
Filed: October 11, 2000	)	
For: WEB CO-NAVIGATION WITH DYNAMIC CONTENT	)	

This is a decision on the petitions filed December 27, 2000, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required .

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

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

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

OCT 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THOMAS R. FITZGERALD, ESQ.
16 E. MAIN STREET, SUTIE 210
ROCHESTER NY 14614-1803

In re Application of
A. Tanju Erdem
Application No. 09/689,565
Filed: October 12, 2000
For: **METHOD FOR TRACKING MOTION OF A FACE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition for reconsideration of abandonment filed July 14, 2004, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

This application was held abandoned for failure to respond to the Office action mailed August 4, 2003. A Notice of Abandonment was mailed on July 1, 2004.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a certificate of mailing for the instant petition, the subject petition, a copy of a credit card payment form, a certificate of mailing for a postcard, copy of a date-stamped return postcard which acknowledges receipt by the Patent and Trademark Office of a response on January 7, 2004, a certificate of mailing for a copy of the response to Office action which was allegedly filed January 5, 2004, a petition for extension of time (two months) which included a certificate of mailing, and a copy of the alleged response (Amendment).

The date stamped on the post card receipt of January 7, 2004 is subsequent to the due date for response to the three month shortened statutory time period for response set forth in the Office action mailed August 4, 2003 including two additional months extension of time. The time period for response to the outstanding Office action, inclusive of two months extension of time would have been January 5, 2004.

A certificate of mailing in accordance with 37 CFR 1.8(a) on a transmittal form which itemizes the papers being transmitted, or on each document, along with a personal statement of the person who actually mailed or transmitted via facsimile transmission, would ordinarily be sufficient such that the correspondence would be accepted as having been timely filed.

37 C.F.R. §.18(a) states in part:

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

In the subject application, the certificate of mailing for the instant petition, certificate of mailing for the postcard, and the certificate of mailing for a copy of the response to Office action which was allegedly filed January 5, 2004, are all addressed to another serial number, i.e., 09/589,595. Moreover, the petition package does not include a personal statement from the person who mailed the correspondence, stating that they actually mailed the correspondence on that day.

The petition for extension of time with certificate of mailing, certificate of mailing for the amendment and the amendment (response) also fail to include a personal statement from the person who mailed the correspondence, stating that they actually mailed the correspondence on that day. In addition the aforementioned documents reference a different serial number than for the subject application or the application previously mentioned above. The serial number identified in the petition for extension of time, certificate of mailing and amendment is 09/689,566.

This last serial number enjoys the same filing date and inventor as the subject application. It would appear as though the petition for extension of time was applied to serial number 09/689,566 as addressed in the petition. Furthermore, it would appear as though the credit card payment form indicates that the payment was made using a credit card that had an expiration of June 2004.

In summary, the petition contains evidence of submissions for other applications, particularly the amendment (response). There is no personal statement from the person signing the certificate of mailing stating that each document was actually mailed on the date specified. The credit card used to pay for the extension of time for another application appears to have expired. Finally, the certificates of mailing address different serial numbered applications, particularly the one for the date-stamped post card receipt which is required to show timeliness of the overall submission, i.e., the date stamped post card is addressed to one application and arrived two days late, the certificate of mailing for a date stamp post card identifies a different application. Without a proper certificate of mailing for the date-stamp post card receipt for the subject application, then the date-stamp post card receipt reveals that the submission was filed two days late.

In view of the above stated reasons, the petition to withdraw the holding of abandonment is **DENIED.**

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 C.F.R. '1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "A Renewed Petition To Withdraw the Holding of Abandonment".

Alternatively, applicant may petition under 37 C.F.R. 1.137, with appropriate fee and copy of response addressed to the Office of Petitions, to revive the subject application.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THOMAS R. FITZGERALD, ESQ.
16 E. MAIN STREET, SUTIE 210
ROCHESTER NY 14614-1803

In re Application of
A. Tanju Erdem
Application No. 09/689,565
Filed: October 12, 2000
For: **METHOD FOR TRACKING MOTION OF A FACE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request to transfer papers and renewed request, filed October 22, 2004, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

This application was held abandoned for failure to respond to the Office action mailed August 4, 2003. A Notice of Abandonment was mailed on July 1, 2004.

The initial petition decision mailed October 15, 2004 denied Petitioner's request to withdraw the holding of abandonment for the following reasons. The petition contained evidence of submissions, specifically an amendment (response) for another application (i.e., 09/689,566, hereinafter referred to as '566), and not a submissions for the subject application. There was no personal statement from the person signing the certificate of mailing stating that each document was actually mailed on the date specified, in accordance with 37 C.F.R. §1.8(b). The credit card used to pay for the extension of time, required such that any submission would have been considered as having been timely filed, appeared to have expired. Finally, the certificates of mailing addressed different serial numbered applications, particularly the one for the date-stamped post card receipt which was required to show timeliness of the overall submission, i.e., the date stamped post card arrived two days late, the certificate of mailing for a date stamp post card identifies a different application. Without a proper certificate of mailing for the date-stamp post card receipt for the subject application, then the date-stamp post card receipt revealed that the entire submission was filed two days late.

Petitioner, within their renewed request states that the submission was errantly submitted in the '566 application and requests that the papers and fees, be transferred to the subject application.

A review of the '566 application record reveals that an extension of time fee was applied to the '566 application following a request received January 7, 2004. Furthermore, the contents of a 21 page amendment, petition for extension of time, and certificate of mailing, all with a receipt date stamp of January 7, 2004, were all located within the file record of the '566 application.

MPEP §724.05 [R-2] Petition To Expunge Information or Copy of Papers in Application File, states in part:...

> III. INFORMATION SUBMITTED IN INCORRECTAPPLICATION
> 37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request **>that< the papers >be expunged< rather than **>transferred< to the correct application file. >For Image File Wrapper (IFW) processing, see IFW Manual.< The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information. Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g.,

> application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition. [emphasis added]

A review of the amendment, petition for extension of time, and certificate of mailing reveals that the heading of each document lists the attorney docket number, examiner, art unit, title and filing date for the subject application, but listed the incorrect serial number. Thus, in accordance with MPEP §724.05, it is determined that the submission was actually intended for the subject application, not the '566 application.

Accordingly, the petition to transfer papers is hereby **GRANTED**. The fees for the extension of time will also be transferred.

The date-stamped post card receipt submitted with the original petition on July 14, 2004 states that the amendment of 21 pages was accompanied by a transmittal letter, extension of time, and a certificate of first class mail. The date-stamped on the post card of January 7, 2004, is after the due date for the response.

However, under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

The date stamp post card receipt identifies the certificate of mailing and the 21 page amendment. The certificate of mailing also identifies the 21 page amendment and certifies that the amendment was deposited in the U.S. Postal Service on January 5, 2004. The certificate of mailing is 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 is withdrawn. The petition to withdraw the holding of abandonment is **GRANTED**.

The subject application and the '566 application file record will be forwarded to the Technology Center's technical support staff for transferring the papers indicated above, including the extension of time fees. Thereafter, the application file will be forwarded to the examiner for appropriate consideration and action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

Long Aldridge & Norman LLP
701 Pennsylvania Avenue NW
Washington, DC 20004

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AUG 2 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Kwang Seop Park, et al.	:	
Application No. 09/689,599	:	ON PETITION
Filed: October 13, 2000	:	
Attorney Docket No. 8733.167.00	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed November 22, 2000. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 23, 2001.

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

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

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

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

Sherry Brinkley
Petitions Examiner

cc: Song K. Jung
McKenna Long & Aldridge
1900 K Street, NW
Washington, DC 20006

UNITED STATES 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 ESSER, RICHARD A.	:	
Appl No.: 09/689,615	:	**DECISION GRANTING**
Filed: October 13, 2000	:	**PETITION**
For: Rapid Deploy Hazmat Containment Device	:	*37 CFR 1.48*
	:	
	:	
	:	
	:	

This is a decision on the petition filed July 16, 2003 to correct inventorship under 37 CFR 1.48.

The petition is granted.

The patented file is being forwarded to Technology Center 3700 for correction in the PALM database.

Stephen J. Castellano
Primary Examiner
Art Unit 3727
Technology Center 3700

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

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AUG 3 1 2001

OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
801 GRAND, SUITE 3900
DES MOINES, IA 50309

In re Application of
Van Kampen, et al.
Application No. 09/689,621
Filed: October 13, 2000
Attorney Docket No.: 7203.01
For: TREATMENT OF DERMAL TUMORS, WARTS, AND VIRAL INFECTIONS OF THE RESPIRATORY TRACT IN HUMANS USING HEAT-KILLED P. ACNES

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 27, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 13, 2000 without an executed oath or declaration and naming Kent R. Van Kampen and Bobby Edwards as the joint inventors.

Accordingly, on January 25, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The instant petition was filed in response.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

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

As to item (1), the petition lacks sufficient evidence to establish that the 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, refuses to sign the oath or declaration.

The affidavit of Kent Van Kampen states that on April 25, 2001, affiant sent a copy of the application and assignment documents to the inventor for execution. Petitioner has failed to provide evidence to corroborate this statement.

The affidavit of Brian Laurenzo accompanying the instant petition states that on June 6, 2001, the inventor, during a telephone conversation, stated he would not sign the declaration without certain conditions being met. The affidavit also indicates that on June 8, 2001, affiant forwarded to the inventor a declaration for execution.

Petitioner is reminded that "before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney." *See*, MPEP 409.03(d).

Petitioner has failed to provide supporting evidence that the inventor was presented with a copy of the application papers (specification, claims and drawings) prior to verbal refusal discussed in the affidavit of Brian J. Laurenzo.

Any renewed petition must be accompanied by evidence that a *bona fide* attempt was made to present the application papers to the inventor at the inventor's last known address prior to any alleged refusal to sign the declaration.

As to item (2), the declaration submitted with the instant petition is not acceptable as it has not been executed. Where it is alleged in a petition under 37 CFR 1.47(a) that an inventor cannot be located or refuses to sign the oath or declaration, the remaining inventor should sign the oath or declaration in his own name and on behalf of the non-signing inventor. Therefore, the signature block of the non-signing inventor should remain unexecuted. Petitioner is advised that any renewed petition should include a properly executed oath or declaration.

As to item (4), petitioner is required to verify the last known address of the inventor. The petition states the last known address of the non-signing inventor to be Neotech, LLC, 10061 Hwy. 22, Dresden, TN 38225. The copy of the letter dated June 8, 2001 from Brian J. Laurenzo to the inventor is otherwise addressed. Additionally, the address should be the last known address at which the inventor customarily receives mail.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

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AUG 3 1 2001

OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
801 GRAND, SUITE 3900
DES MOINES, IA 50309

In re Application of :
Van Kampen, et al. :
Application No. 09/689,621 :
Filed: October 13, 2000 :
Attorney Docket No.: 7203.01 :
For: TREATMENT OF DERMAL TUMORS, :
WARTS, AND VIRAL INFECTIONS OF THE :
RESPIRATORY TRACT IN HUMANS USING :
HEAT-KILLED P. ACNES

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 27, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 13, 2000 without an executed oath or declaration and naming Kent R. Van Kampen and Bobby Edwards as the joint inventors.

Accordingly, on January 25, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The instant petition was filed in response.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

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

As to item (1), the petition lacks sufficient evidence to establish that the 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, refuses to sign the oath or declaration.

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DORSEY & WHITNEY, LLP

The affidavit of Kent Van Kampen states that on April 25, 2001, affiant sent a copy of the application and assignment documents to the inventor for execution. Petitioner has failed to provide evidence to corroborate this statement.

The affidavit of Brian Laurenzo accompanying the instant petition states that on June 6, 2001, the inventor, during a telephone conversation, stated he would not sign the declaration without certain conditions being met. The affidavit also indicates that on June 8, 2001, affiant forwarded to the inventor a declaration for execution.

Petitioner is reminded that "before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney." *See*, MPEP 409.03(d).

Petitioner has failed to provide supporting evidence that the inventor was presented with a copy of the application papers (specification, claims and drawings) prior to verbal refusal discussed in the affidavit of Brian J. Laurenzo.

Any renewed petition must be accompanied by evidence that a *bona fide* attempt was made to present the application papers to the inventor at the inventor's last known address prior to any alleged refusal to sign the declaration.

As to item (2), the declaration submitted with the instant petition is not acceptable as it has not been executed. Where it is alleged in a petition under 37 CFR 1.47(a) that an inventor cannot be located or refuses to sign the oath or declaration, the remaining inventor should sign the oath or declaration in his own name and on behalf of the non-signing inventor. Therefore, the signature block of the non-signing inventor should remain unexecuted. Petitioner is advised that any renewed petition should include a properly executed oath or declaration.

As to item (4), petitioner is required to verify the last known address of the inventor. The petition states the last known address of the non-signing inventor to be Neotech, LLC, 10061 Hwy. 22, Dresden, TN 38225. The copy of the letter dated June 8, 2001 from Brian J. Laurenzo to the inventor is otherwise addressed. Additionally, the address should be the last known address at which the inventor customarily receives mail.

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.

Christina Y Tartera for

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

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Paper No. 9

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JAN 28 2002

OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
801 GRAND, SUITE 3900
DES MOINES, IA 50309

In re Application of Van Kampen, et al. Application No. 09/689,621 Filed: October 13, 2000 Attorney Docket No. 7203.01 For: TREATMENT OF DERMAL TUMORS, WARTS, AND VIRAL INFECTIONS OF THE RESPIRATORY TRACT IN HUMANS USING HEAT-KILLED P. ACNES	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a) filed December 7, 2001.

The petition is **GRANTED**.

Petitioner has shown that the inventor refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

Deposit account 04-1420 has been charged a two (2) month extension of time in the amount of $400.00.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOBBY EDWARDS
9930 HWY. 22
DRESDEN, TX 38225

In re Application of :
Van Kampen, et al. :
Application No. 09/689,621 : LETTER
Filed: October 13, 2000 :
Attorney Docket No. 7203.01 :
For: TREATMENT OF DERMAL TUMORS, :
WARTS, AND VIRAL INFECTIONS OF THE :
RESPIRATORY TRACT IN HUMANS USING :
HEAT-KILLED P. ACNES :

COPY MAILED

JAN 28 2002

OFFICE OF PETITIONS

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

CC: DORSEY & WHITNEY LLP
801 GRAND, SUITE 3900
DES MOINES, IA 50309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 0 4 2005

OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
901 NEW YORK AVE NW
WASHINGTON DC 20001-4413

In re Application	:	
Schalm, et al.	:	
Application No. 09/689,637	:	DECISION ON APPLICATION
Filed: October 13, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 07873.0002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 22, 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 six hundred forty (640) 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 **six hundred forty (640) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 22, 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 June 22, 2004, 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 six hundred forty (640) days.

Applicants assert entitlement to a patent term adjustment of six hundred forty (640) days on the basis that the PTO improperly assessed Applicants a delay of ninety-six (96) days for responding to a Notice to File Missing Parts mailed on November 28, 2000. Applicants assert that they filed a response on April 30, 2001, and as such should only have been assessed delay of sixty-one (61) days. In addition, Applicants assert that the PTO improperly assessed Applicants a delay of six hundred sixty-eight (668) days for filing a supplemental response pursuant to 37 C.F.R. § 1.704(c)(8). Applicants assert that the amendment filed on October 20, 2003, was a duplicate of a amendment previously filed on December 21, 2001, and as such, no Applicant delay should be assessed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of seven hundred one (701) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delays of ninety-eight (98) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and six hundred sixty-eight (668) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. §1.704(c)(8). The adjustments of 96 and 668 days are at issue.

The adjustment of ninety-six (96) days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on November 28, 2000. Applicants filed a complete response to this notice on April 30, 2001. As this was not timely pursuant to 37 CFR 1.704(b), applicant delay of sixty-one (61) days should have been assessed, not ninety-six (96) days.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The adjustment of six hundred sixty-eight (668) days has been found to be correct. Applicants filed an amendment on December 21, 2001. Applicants filed a duplicate copy of the amendment on October 20, 2003, together with a letter stating that they were filing the duplicate in response to the Examiner's request. Accordingly, no applicant delay should have been assessed under 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred forty (640) days** (701 days of PTO delay and 61 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

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

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

Karin A. 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
901 NEW YORK AVE NW
WASHINGTON DC

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SEP 01 2005

OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Solco Walle Schalm	: FOR PATENT TERM ADJUSTMENT
Application No. 09/689,637	: AND
Filed: October 13, 2000	: NOTICE OF INTENT TO ISSUE
Patent No. 6,905,677	: CERTIFICATE OF CORRECTION
Issued: June 14, 2005	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed July 15, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The petition is **GRANTED.**

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eight hundred seventy-five (875)** days.

On June 14, 2005, the above-identified application matured into U.S. Patent No. 6,905,677. The patent issued with a Patent Term Adjustment of seven hundred fifty-five (755) days. Patentee points out that he was improperly assessed applicant delay of one hundred twenty (120) days for previously filing an application for patent term adjustment on June 22, 2004.

Patentee states that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of seven hundred fifty-five (755) days based on an adjustment for PTO delay of seven hundred one (701) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2) and two hundred thirty-five (235) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by Applicant's delay of sixty-one (61) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The adjustment of 120 days is at issue.

Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of issuance is **eight hundred seventy-five (875) days** (936 (701+235) days of PTO delay and 61 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.

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 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 **eight hundred seventy-five (875) days** subject to any disclaimers.

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

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

Enclosure: copy of draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 6,825,024	:	
Issue Date: November 30, 2004	:	
Application No. 09/689,730	:	ON PETITION
Filed: October 13, 2000	:	
Attorney Docket No. 0055-0310P	:	

This is a decision on the petition filed September 9, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

March 20, 2003

Nils E. Pedersen
Wenderoth, Lind & Ponack
2033 K St., N.W.
Suite 800
Washington, DC 20006

In re application of:
Sazunaga Suzuki
Serial No.: 09/689,761
Filed: October 13, 2000
For: LIQUID JETTING APPARATUS

DECISION ON PETITION

This is a decision on the petition received on March 27, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed December 1, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 2, 2001.

On March 27, 2002, the office received a communication from attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed December 1, 2000.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed December 1, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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DEC 07 2005

OFFICE OF PETITIONS

In re Application of
Akio Katsube et al. :
Application No. 09/689,774 :
Filed: October 13, 2000 :
Attorney Docket No: 018976-181 :

ON PETITION

This is a decision on the petition filed July 23, 2004 and resubmitted May 20, 2005, to restart the period for response due to non-receipt. In accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, this petition is treated under 37 CFR 1.181.

The petition is **GRANTED**.

This application became abandoned on April 30, 2004, for failure to file a timely response to the non-Final Office Action mailed January 29, 2004, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts that the non-Final Office Action was never received.

Although, the file record now discloses the addition of "BUCHANAN INGERSOL PC" in the address, the file record does confirm that the Office Action was mailed to the address of record, without the inclusion of "BUCHANAN INGERSOL PC" and addressed to BURNS, DOANE, SWECKER & MATHIS, which was, in 2004, the same address used on all correspondences from the USPTO. There does not appear to be a change of address of record in the time period the non-Final Office Action was mailed. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed January 29, 2004 would have been filed, had it been received. To show that the Notice mailed January 29, 2004 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed January 29, 2004, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action. Furthermore, a review of the file record

reveals that the office communication mailed on January 29, 2004 was returned by the USPS and no apparent reason is readily visible. In fact, the first page of the correspondence which bears the address is not included in what was returned by the USPS.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 3726 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Akio Katsube	: DECISION ON REQUEST FOR
Patent Number	: 7624492	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/689,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/13/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **3** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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David E. Dougherty
Dennison, Schultz & Dougherty
1727 King Street
Suite 105
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of :
Nishibori, et al. :
Application No. 09/689,831 : ON PETITION
Filed: October 13, 2000 :
Attorney Docket No. 3170/2 :
For: RESIN CULTIVATING BASE, WATER :
PURIFYING DEVICE AND METHOD USING RESIN
CULTIVATING BASE

This is a decision on the petition 37 CFR 1.181, requesting withdrawal of the holding of abandonment of the above-identified application. The petition was filed on September 15, 2005.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

This application was held abandoned for failure to timely submit formal drawings within three months of the mailing of the March 18, 2002 Notice of Allowability. Applicants submitted a completed Part B-Fee(s) Transmittal, the issue fee, and 4 sheets of corrected formal drawings on June 18, 2002. These documents are present in the application file. A Notice of Abandonment was mailed on July 23, 2002.

Petitioners argue that a corrected formal drawings were timely filed. However, the March 18, 2002 Notice of Allowability required corrected drawings including (1) changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) and (2) changes required by the proposed drawing correction filed on February 11, 2002, which was approved by the Examiner.

Petitioners timely responded to the second above-listed requirement. Petitioners appear **not** to have responded to the Draftsman's request for correction of the left margins of Figures 1-3 and 11-14, as set forth in the PTO-948.

Although the PTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so. See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994). Rather, it is the applicants who are ultimately responsible for filing proper documents. Id. That

The petition under 37 CFR 1.181 is dismissed.

Petitioners are urged to file a petition to revive under 37 CFR 1.137(b), the unintentional standard.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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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David E. Dougherty
Dennison, Schultz & Dougherty
1727 King Street
Suite 105
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Nishibori, et al.	:	
Application No. 09/689,831	:	ON PETITION
Filed: October 13, 2000	:	
Attorney Docket No. 3170/2	:	
For: RESIN CULTIVATING BASE, WATER PURIFYING DEVICE AND METHOD USING RESIN CULTIVATING BASE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2006, to revive the above-identified application.

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

This application was held abandoned for failure to timely submit formal drawings within three months of the mailing of the March 18, 2002 Notice of Allowability. Because applicants did not fully respond to the Notice, the application became abandoned on June 19, 2002. A Notice of Abandonment was mailed on July 23, 2002.

The instant petition contains the required corrected formal drawings, an acceptable statement regarding the unintentional nature of the delay in fully responding to the March 18, 2002 Notice of Allowability, and the petition fee. Please find enclosed a Notice of Draftsperson's Patent Drawing Review.

After the mailing of this decision, the application will be forwarded to Publishing Division for processing into a patent.

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

enclosure: Notice of Draftsperson's Patent Drawing Review

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST ST.
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
Abha Lessing et al :
Application No. 09/689,927 :
Filed: October 12, 2000 :
Attorney Docket No. 11800-001-999 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 17, 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]

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 the undersigned at (571) 272-3208.

---

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

The examiner of Technology Center AU 2178 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
INTELLECTUAL PROPERTY GROUP
51 LOUISIANA AVENUE, N.W.
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6558541
Issue Date: May 6,2003
Application No. 09689959
Filed: October 12,2000
Attorney Docket No. AVLU-52441.002

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

This is a decision on the electronic petition, filed May 23,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 23,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6558541	2003-05-06	09689959	2000-10-12	MORRX 100

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jason H. Foster/	Date (YYYY-MM-DD)	2007-05-23
Name	Jason H. Foster	Registration Number	29981

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

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

OCT 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Per Lennart Lindberg et al :
Application No. 09/690,044 :
Filed: October 16, 2000 :
Attorney Docket No. 1103326-0072 :

This is a decision on the petition, filed October 4, 2004 and supplemented on October 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WHITE & CASE
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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SEP 26 2005

OFFICE OF PETITIONS

In re Patent No.6,875,872 :
Issue Date: April 5, 2005 :
Application No. 09/690,044 : ON PETITION
Filed: October 16, 2000 :
Attorney Docket No. 1103326-0072 :

This is a decision on the petition filed April 6, 2005, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is Dismissed.

Petitioner should supply a Certificate of Correction form with the desired changes to be made. A blank copy of form PTO/SB/44 is attached for your convenience.

This matter is being forwarded to Files Repository.

Telephone inquiries concerning this matter may 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

ATTACHMENT: FORM PTO/SB/44

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. 6,875,872	:	
Issue Date: April 5, 2005	:	
Application No. 09/690,044	:	ON PETITION
Filed: October 16, 2000	:	
Attorney Docket No. 1103326-0072	:	

This is a decision on the renewed petition filed March 10, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Office records show that the desired correction was made on April 20, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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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JUN 0 6 2006
OFFICE OF PETITIONS

In re Application of	:
Richard Gresko et al	: DECISION ON PETITION
Application No. 09/690,057	: UNDER 37 CFR 1.137(b)
Filed: October 16, 2000	:
Attorney Docket No. MOT-D2006C1	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely submit corrected drawings on or before January 19, 2006, as required by the Notice of Allowability mailed October 19, 2005. A Notice of Abandonment was mailed on April 6, 2006.

The petition satisfies the requirements for a grantable petition in that the reply in the form of corrected drawings, which have been approved by the Official Draftsperson (note attachment), the petition fee of $1,500, and the required statement of unintentional delay have been submitted. Accordingly, the submission of corrected drawings is accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Official Draftsperson's Drawing Review

UNITED STATES 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, 15th Floor
New York, NY 10022-2585

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,898,213	:	
Issue Date: May 24, 2005	:	
Application No. 09/690,077	:	ON PETITION
Filed: October 16, 2000	:	
Attorney Docket No. RADI 17.486	:	

This is a decision on the petition filed July 8, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/06

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/690197** Patent No.: **6806363**

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

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

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

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 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: changes are o.k.

- D. Lukton 4/9/07

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center

Cecilia Tsang
SPE

1654
Art Unit

OIPE IAP6
FEB 28 2007
PATENT & TRADEMARK OFFICE

GTEC 4
.2021

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

THOMAS F. BERGER, ESQUIRE
WILLIAM MULLEN
8270 GREENSBORO DRIVE
SUITE 700
MCLEAN VA 22102

Paper No. 16

MAILED

JUL 27 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Entered in Patent Docket
By: Date: 8/2/04
Action due:
Williams Mullen

In re Application of Mamdani Malik et al.
Application No. 09/690212
Filed 17 October 2000
Attorney Docket No. Impulsity03

: NOTICE OF WITHDRAWAL
: FROM ISSUE
: UNDER 37 CFR 1.313(b)
:

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability 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 examiner Kambiz Abdi at (703) 305-3364.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

SFD 07/28/2004 TKS
ENTERED IN PATENT DOCKET
BY:_____ DATE:_____
ACTION DUE:_____
WILLIAMS MULLEN

JOHN J. LOVE 7-23-04
DIRECTOR
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090513

DATE : May 13, 2009

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7243761

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:

/ROBERT A SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

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)
6727924	2004-04-27	09690343	2000-10-17	010-00-008

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	/VGeraldGrafe#42599/	Date (YYYY-MM-DD)	2008-06-16
Name	V. Gerald Grafe	Registration Number	42599

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 6727924
Issue Date: April 27,2004
Application No. 09690343
Filed: October 17,2000
Attorney Docket No. 010-00-008

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

This is a decision on the electronic petition, filed June 16,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 16,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MIKE DAHLIN
118 BLUFF PARK CIRCLE
AUSTIN, TX 78746

COPY MAILED

NOV 0 2 2001

OFFICE OF PETITIONS

In re Application of	:	
Miikkulainen et al.	:	
Application No. 09/690,354	:	DECISION ON PETITION
Filed: October 17, 2000	:	
Attorney Docket No.: 800550	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2001, to revive the above-identified application.

This above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application mailed December 1, 2000, which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on February 2, 2001. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Having found that all requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met, this Petition is hereby **Granted**.

The correspondence address change has been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for processing of the Revocation of Power of Attorney, filed with the instant Petition.

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

cc: Taylor Russell & Russell, PC
4807 Spicewood Springs Road
Building One, Suite 1200
Austin, TX 78745

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOLER & LARSON & ABEL L.L.P.
5000 PLAZA ON THE LAKE STE 265
AUSTIN, TX 78746

In re Application of MIIKKULAINEN et al	:	
Application No.: 09/690,354	:	DECISION ON PETITION UNDER
Filing Date: October 17, 2000	:	37 CFR 1.181 TO WITHDRAW
For: SYSTEMS AND METHODS FOR	:	HOLDING OF ABANDONMENT
ADAPTIVE MEDICAL DECISION	:	
SUPPORT	:	

This is a decision on the petition filed February 22, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was abandoned for failure to file a timely response to the Office action mailed March 24, 2004. A Notice of Abandonment was mailed January 13, 2005.

A review of the file record indicates that a timely response was received on July 26, 2004 and has been matched to the file. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued.

The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED**.

The application is being forwarded to the Technology Center support staff for entry of the response and will thereafter be forwarded to the examiner for consideration of the response.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 8

THELEN REID & PRIEST LLP
ATTN: ROBERT E. KREBS
P O BOX 640640
SAN JOSE, CA 95164-0640

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SEP 1 2 2004

OFFICE OF PETITIONS

In re Application of
Jeffrey C. Herold
Application No. 09/690,360
Filed: October 16, 2000
Attorney Docket No. 033905-009

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 12, 2001, which set a two month period for submitting the statutory filing fee, a signed oath or declaration, and the $65 surcharge fee for their late filing. It is noted that an executed oath was present on filing, which renders the requirement in the Notice therefor improper. It is further noted that an authorization to charge the filing fees for this application was also present on filing. However, there were insufficient funds in the authorized deposit account for charging the statutory filing fee. Accordingly, since the filing fee required by the Notice was not received within the period set, the date of abandonment of this application is April 13, 2001. A Notice of Abandonment was mailed on May 23, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the filing and surcharge fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of January 12, 2001 is accepted as having been unintentionally delayed.

As authorized, the $385 filing fee and the $65 surcharge fee required by the Notice of January 12, 2001 will be charged to petitioner's deposit account.

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

JULES E. GOLDBERG, ESQ.
REED SMITH LLP
375 PARK AVENUE
NEW YORK, NY 10152

COPY MAILED

MAR - 1 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Aiba et al.
Application No. 09/690,377
Filed: October 17, 2000
Attorney's Docket No. JG-KM-4818D/500576.20020

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

The petition is **GRANTED**.

A final Office Action was mailed on July 3, 2001. Applicants filed a proposed amendment on October 4, 2001 along with a request for a 1-month extension of time. As indicated in the October 26, 2001 Advisory Action, the proposed amendment did not place the application in condition for allowance and thus was not entered. On December 3, 2001, Applicants filed another proposed amendment and a request for a 1-month extension of time. This proposed amendment, as pointed out in the December 14, 2001 Advisory Action, again failed to place the application in condition for allowance and was not entered.

Both of the above advisory action letters reminded Applicants that the period for filing a proper reply to the July 3, 2001 final Office Action would expire 3 months from the mailing date of that office action, i.e., July 3, 2001, plus extension(s) of time obtained under 37 CFR 1.136(a), if any. Given that a proper reply was not filed[1] on or before December 3, 2001, this application became abandoned on December 4, 2001[2] for failure to timely submit a proper reply to the July 3, 2001 final Office Action. This petition precedes the mailing of a notice of abandonment.

---

[1] A required reply to a final Office action, as is in the instant case, must be: the filing of a continuing application under 37 CFR 1.53(b); a request for continued examination (RCE) by filing a submission under 37 CFR 1.114 (for utility or plant applications filed on or after 6/8/95); a notice of appeal; or a proper amendment, i.e., an amendment that *prima facie* places the application in condition for allowance. Since no claims stand allowed in the instant application, an amendment canceling all rejected claims would not be a proper form of reply. See MPEP 711.03(c)(III)(A)(2)(b) (Aug. 2001).

[2] The 1-month extension of time obtained on 10/4/01, and again on 12/3/01, extended the due date for the reply to 12/3/01. The application thus became abandoned as of 12/4/01. See 37 CFR 1.135; MPEP 711.04(a) (Aug. 2001): "[T]he date of abandonment is after midnight of the date on which the set shortened statutory period, including any [obtained] extensions under 37 CFR 1.136, expired."

The instant petition encloses a Notice of Appeal as reply to the July 3, 2001 final Office Action,[3] the $1,280 petition fee, the $320 fee for filing the Notice of Appeal, and a statement that "the abandonment was unintentional." 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. Section 1.137(b)(3) further states that the Commissioner may require additional information where there is a question whether the delay was unintentional. While the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it is being construed as meeting that requirement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Finally, under 37 CFR 1.192, **Applicants must file an Appeal Brief within two (2) months from the mailing date of this decision** to avoid dismissal of the appeal, and subsequently abandonment of this application since no claims stand allowed in this application.[4] This 2-month period is extendable under 37 CFR 1.136.[5]

The application is being forwarded to Technology Center 3700 to await submission of the appeal brief.

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

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

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

---

3 See note 1, *supra*.

4 See MPEP 710.02(d) (Aug. 2001).

5 *Id.* (The 2-month non-statutory period is extendable for up to 5 months under 37 CFR 1.136(a), and is further extendable under 37 CFR 1.136(b) in exceptional situations.).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6531262
Issue Date: March 11,2003
Application No. 09690405
Filed: October 17,2000
Attorney Docket No. 903.8092USQ

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

This is a decision on the electronic petition, filed June 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 June 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)
6531262	2003-03-11	09690405	2000-10-17	16489-51319

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	/Jack D. Todd/	Date (YYYY-MM-DD)	2007-06-07
Name	Jack D. Todd	Registration Number	44375

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,433	10/18/2000	Kaori Yasufuku	2004/00003	3745

7590 06/03/2004

Burton A Amernick
Pollock Vande Sande & Amernick R L L P
Suite 800
1990 M Street N W
Washington, DC 20036-3425

EXAMINER
NGUYEN, TRUC T

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 06/03/2004

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

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

In re Application of

Kaori Yasufuku

Serial No.: 09/690,433

Filing Date: 10/18/2000

DECISION
VACATING
NOTICE OF ABANDONMENT

[redacted]

The Notice of Abandonment mailed 05/05/2004 is **VACATED.**

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

L. Sprull
Group 2800,Tech. Support

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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DEC 28 2004

OFFICE OF PETITIONS

In re Patent No. 6,793,585 :
Issue Date: September 21, 2004 :
Application No. 09/690,474 : ON PETITION
Filed: October 18, 2000 :
Attorney Docket No. 07409.0020 :

This is a decision on the petition under 37 CFR 1.183, filed October 29, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone 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.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 2 3 2010

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

In re Application of: Eric C. Hannah et al. Application No. 09/690,512 Filed: October 17, 2000 For: ENSURING THAT ADVERTISEMENTS ARE PLAYED	**DECISION ON PETITION FILED UNDER 37 CFR 1.181**

This is in response to the petition under 37 CFR 1.181 received September 2, 2009.

Petitioner questions whether or not the Examiner can re-raise a non-prior art issue after one, much less two, reversals by the Board of Appeals.

The prosecution file indicates that a Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed February 18,2010. In the Reasons for Allowance included with the Notice of Allowability, the Examiner finds appellant's arguments to be persuasive. Accordingly the claims are allowed based on the Board's decision in conjunction with appellant's response.

Accordingly, the petition is **DISMISSED AS MOOT**.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

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

WG/tl: 2/19/10
/tl/

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Michael P. Lilly	: DECISION ON REQUEST FOR
Patent Number	: 7647241	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/690,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** 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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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PPG INDUSTRIES INC
INTELLECTUAL PROPERTY DEPT
ONE PPG PLACE
PITTSBURGH PA 15272

In re Application of	:	
Michael O. Okoroafor et al.	:	
Application No. 09/690,595	:	ON PETITION
Filed: October 17, 2000	:	
Attorney Docket No. 1636A1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely and proper manner to the non-final Office action mailed, March 27, 2002, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 28, 2002.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

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

The application file is being referred to Technology Center 1712 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6384654
Issue Date: May 7,2002
Application No. 09690633
Filed: October 17,2000
Attorney Docket No. 80816.0002

:

: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)
6,384,654	2002-05-07	09/690,633	2000-10-17	80816.0002

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven K. Barton/	Date (YYYY-MM-DD)	2007-12-07
Name	Steven K. Barton	Registration Number	36445

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

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

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APR 11 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,897,019 :
Issue Date: May 24, 2005 :
Application No. 09/690,647 :
Filed: October 17, 2000 :
Attorney Docket No. TUV-005.01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 09 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Thomas Thompson
92-543 Kokole Place
Makakico, HI 96707

In re Application of
Thomas Thompson
Application No. 09/690,657
Filed: March 2, 2001
For: HURRICANE AND STORM PROTECTION LARGE WINDOWS AND DOORS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on February 25, 2004.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment mailed August 11, 2003. This letter was mailed in response to the amendment filed July 22, 2003.

Applicant states that the Notice mailed August 11, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's (in this case the inventor, Mr. Thomas Thompson) statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Randolph A. Reese

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

RAR/mjz: 6/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas C. Thompson
92-543 Kokole PL
Makakilo HI 96707

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JUL 2 1 2008

In re Application of :
Thomas C. Thompson :
Application No. 09/690,657 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No.

This is a decision on the third renewed petition to withdraw the holding of abandonment, filed March 13, 2008.

The third renewed petition is **DISMISSED**.

The application became abandoned on September 12, 2003, after no response was received to the Notice of Non-Compliant Amendment mailed August 11, 2003, which set a shortened period for reply of one-months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 12, 2003. A Notice of Abandonment was mailed December 15, 2003.

In the instant petition, petitioner maintains that the Notice of Non-Compliant Amendment was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires 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.

Petitioner must make a statement that petitioner's records where searched, but the Office communication was not found. Petitioner must also provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. It is noted that in the prior-filed petitions, petitioner states that petitioner maintains an inventor's logbook where incoming correspondence is entered. The renewed petition should be accompanied by a copy of the relevant portions of the inventor's logbook. If, in fact, petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. Petitioner may also file a copy of any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

It is noted that the petition was accompanied by a copy of a "Notice Regarding Drawings" mailed August 20, 2003, that was erroneously sent to petitioner. Petitioner asserts that the petitioner's receipt of this notice with the errors contained thereon is evidence that the Notice of Non-Compliant Amendment was not received. Petitioner's argument is not persuasive. Petitioner's receipt of the this "Notice Regarding Drawings" is evidence of an error on the part of the USPTO in sending the wrong notice to petitioner, but is not evidence that the Notice of Non-Compliant Amendment mailed August 11, 2003, was not received. Petitioner must file a copy of any calendar notations or logbook that petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 25

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JAN 30 2008

OFFICE OF PETITIONS

ON PETITION

Thomas C. Thompson
92-543 Kokole PL
Makakilo HI 96707

In re Application of :
Thomas C. Thompson :
Application No. 09/690,657 :
Filed: March 2, 2001 :
Attorney Docket No.

This is a decision on the second renewed petition to withdraw the holding of abandonment, filed July 5, 2006, and in duplicate on November 13, 2006.

The second renewed petition is **DISMISSED**.

The application became abandoned on September 12, 2003, after no response was received to the Notice of Non-Compliant Amendment mailed August 11, 2003, which set a shortened period for reply of one-months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 12, 2003. A Notice of Abandonment was mailed December 15, 2003.

In the instant petition, petitioner maintains that the Notice of Non-Compliant Amendment was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires 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.

Petitioner must make a statement that petitioner's records where searched, but the Office communication was not found. Petitioner must also provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. It is noted that in the prior-filed petitions, petitioner states that petitioner maintains an inventor's logbook where incoming correspondence is entered. The renewed petition should be accompanied by a copy of the relevant portions of the inventor's logbook. If, in fact, petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. Petitioner may also file a copy of any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. 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

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FROM DIRECTOR'S OFFICE

MAY 16 2006

TECHNOLOGY CENTER 3600

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

Thomas Thompson
92-543 Kokole Place
Makakico, HI 96707

In re Application of Thomas Thompson Application No. 09/690,657 Filed: March 2, 2001 For: HURRICANE AND STORM PROTECTION LARGE WINDOWS AND DOORS	DECISION ON RENEWED PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on August 16, 2004. The delay in responding to this petition is regretted.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment mailed August 11, 2003. This letter was mailed in response to the amendment filed July 22, 2003.

Petitioner states that the Notice of Non-Compliant Amendment mailed August 11, 2003 was not received. However, petitioner indicates that a correspondence was received around the middle of August, 2003, that was addressed to the applicant, but had a different named applicant and different application number. The petitioner indicates that a copy of the correspondence received around the middle of August, 2003, was included with the renewed petition. Petitioner also indicates that when a communication from the USPTO is received the petitioner marks in his inventor's logbook the due date that the correspondence is due at the Office.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the

outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's renewed petition of August 16, 2004, failed to include a copy of any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question and copies of records on which the receipt date of the Office communication would have been entered had it been received. Petitioner indicates that an inventor's logbook is kept but failed to include a copy as proof of non-receipt of the Office communication. Petitioner also failed to include a copy of the correspondence received in the middle of August, 2003, which the petitioner indicated included a different serial number and different inventor name.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
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 should be directed to the Office of Petitions Staff at (571) 272-3282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg: 5/3/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas C. Thompson
92-543 Kokole PL
Makakilo HI 96707

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OFFICE OF PETITIONS

In re Application of

Thomas C. Thompson

Application No. 09/690,657

Filed: March 2, 2001

Attorney Docket No.

DECISION ON PETITION

This is a decision on the fourth renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed July 31, 2008, and in supplement on September 18, 2008.

The fourth renewed petition is **granted.**

The application became abandoned on September 12, 2003, after no response was received to the Notice of Non-Compliant Amendment mailed August 11, 2003, which set a shortened period for reply of one-months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 12, 2003. A Notice of Abandonment was mailed December 15, 2003.

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

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. Petitioner docket records filed September 18, 2008, are contained in the Image File Wrapper for this application. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3600, GAU 3637for further processing, including re-mailing of the Notice of Non-Compliant Amendment and resetting of the time period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 17, 2006

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,965,123 / 09/691,004

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:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2820

SPE | **Art Unit**

OIPE IAP85
JAN 0 9 2006
PATENT & TRADEMARK OFFICE

Patent 6,965,123 PATENT

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,965,123	Docket No:	303.324US4
Issue Date:	November 15, 2005	Patentee:	Leonard Forbes et al.
Customer No.:	21186	Confirmation No.:	4509

Title TRANSISTOR WITH VARIABLE ELECTRON AFFINITY GATE AND METHODS OF FABRICATION AND USE

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), enclosed please find a check in the amount of $100.00.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted

LEONARD FORBES ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: 30 December 2005 By: David R. Cochran

David R. Cochran
Reg. No: 46,632
DRC:cmb

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 30 day of December 2005

Christopher M. Barker
Name

Signature

01/04/2006 EAREGAY1 00000075 6965123
01 FC:1811 100.00 OP

JAN 09 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
Zhan et al.
Application No. 09/691,006
Filed: October 18, 2000
Attorney Docket No.110.01420101

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on May 19, 2002, to change the order of inventorship.

The petition is **GRANTED**.

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

1. Qiwen Zhan
2. James R. Leger

As per petitioner's request the petition fee of $130.00 has been charged to deposit account 13-4895.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure: corrected filing receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 04,2007

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/691,067 Patent No.: 6590335 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Ashok
for **SPE**

2879
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 6,730,916	:	
Application No. 09/691,234	:	
Filed: October 19, 2000	:	ON PETITION
Issued: May 4, 2004	:	
Attorney Docket No. 00862.022032	:	

This is a decision on the petition filed February 8, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to include an omitted assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

JAN 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Wells et al.	:	
Application No. 09/691,237	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. 1959-7464.1US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 1, 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 a Notice of Appeal with requisite fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The Notice of Appeal filed December 1, 2005, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1600 for further processing.

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

OFFICE

Navigation Technologies Corporation
Attenton: Patent Department
222 Merchandise Mart Plaza
Merchandise Mart Suite 900
Chicago, IL 60654

MAILED

FEB 27 2004

Technology Center 2100

In Re Application:
Ole Henry Dorum
Appl No. 09/691,308
Filed: October 18, 2000
Attorney Docket No.: N0071 US
For: SYSTEM AND METHOD FOR UPDATING A GEOGRAPHIC DATABASE USING SATELITE IMAGERY

WITHDRAW FROM ISSUE
FEE NOT PAID

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Margaret A. Focarino
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
REASEARCH TRIANGLE PARK NC 27709

COPY MAILED

OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Schaeck :
Application No. 09/691,324 :
Filed: October 18, 2000 :
Attorney Docket No. DE9-1999-0044-US1 :
For: TECHNIQUE FOR COMMUNICATION WITH MOBILE DATA PROCESSING DEVICES BY WAY OF MOBILE SOFTWARE AGENTS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely submit corrected formal drawings within three (3) months of the mailing of the Notice of Allowability, mailed August 3, 2005. Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on April 6, 2006.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

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

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may

require additional information where there is a question whether the delay was unintentional; and

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

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

The corrected drawings submitted on May 18, 2006 have been objected to by the Draftsperson. Enclosed, please find a completed Notice of Draftsperson's Patent Drawing Review.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review for drawings filed May 18, 2006 and October 18, 2000 in application no. 09/691,324

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
REASEARCH TRIANGLE PARK NC 27709

COPY MAILED

APR 13 2007

OFFICE OF PETITIONS

In re Application of :
Schaeck :
Application No. 09/691,324 :
Filed: October 18, 2000 :
Attorney Docket No. DE9-1999-0044-US1 :
For: TECHNIQUE FOR COMMUNICATION WITH MOBILE DATA PROCESSING DEVICES BY WAY OF MOBILE SOFTWARE AGENTS

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed December 22, 2006 (certificate of mailing date December 20, 2006), to revive the above-identified application.

This application became abandoned for failure to timely submit corrected formal drawings within three (3) months of the mailing of the Notice of Allowability, mailed August 3, 2005. Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on April 6, 2006.

Applicant has submitted a proper reply in the form of corrected formal drawings, an acceptable statement of the unintentional nature of the delay in responding to the August 3, 2005 Notice of Allowability, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for consideration of the drawings filed on December 22, 2006 (certificate of mailing date December 20, 2006).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#14

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

JAN - 3 2003

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:
Joseph Tyler et al	:
Serial No.: 09/691,429	: PETITION DECISION
Filed: October 18, 2000	:
Attorney Docket No.: 1932.2005-002	:

This is in response to applicants' petition under 37 CFR 1.181, filed October 4, 2002, requesting withdrawal of Finality of the last Office action. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed October 18, 2000, and presented claims 1-21 for examination. In a first Office action, mailed January 2, 2002, the examiner rejected claims 1-8, 12 and 19-21 under 35 U.S.C. 102(b) as anticipated by Holmes-Farley. Claims 1-21 were rejected under 35 U.S.C. 103(a) as obvious over Holmes-Farley in view of Renegal in connection with the specification and Physicians Desk Reference. Claim 4 was further rejected under 35 U.S.C. 112, second paragraph, as indefinite.

Applicants replied on April 16, 2002 (Certificate of Mailing dated April 12, 2002), with an extension of time and fee and by canceling claim 1, amending claims 2-19 and adding claims 22-23. Appropriate arguments to overcome the rejections were made.

The examiner then mailed a Final Office action to applicants on July 29, 2002. The examiner withdrew claims 19-21 from further consideration as being directed to a non-elected invention based on the inclusion of a pharmaceutically active agent. Claims 2-18 were rejected under 35 U.S.C. 103(a) as unpatentable over Holmes-Farley and John et al. Claim 22 was rejected under 35 U.S.C. 103(a) as unpatentable over Holmes-Farley in view of the specification. Claim 23 was indicated allowable. The action was made Final without any specific reason therefor being given.

DISCUSSION

Applicants point out that the Office action contains a new ground of rejection not previously set forth and not necessitated by amendments to the claims and that the finality is, therefor, premature. The new rejection pointed out is the addition of the John et al reference to Holmes-

Farley under 35 U.S.C. 103(a). The previous rejection under 35 U.S.C. 103(a) combined Holmes-Farley and Renegal. John et al was cited by applicants in an IDS which is indicated as having been considered by the examiner prior to first Office action. Thus John et al could have been applied in a rejection in the first Office action, but was not. Applicants further point out that the present claims contain all of the limitations of claims 13-16 directed to a tablet comprising a core and coating. Thus applicants' amendments did not necessitate the new ground of rejection. The Renegal reference was withdrawn when it was pointed out that it did not qualify as a reference since it only became available after applicants' priority date.

A review of the claims as originally presented shows that claims to a tablet core and claims to a tablet core with a coating were presented for examination as well as claims to a compressed tablet of the same components. All of the claims were examined and rejected as noted above. Claims 13-16, specifically directed to a tablet core and a coating were rejected over Holmes-Farley in view of Renegal. The response to the first Office action amended all claims to claim a tablet core and coating thereon. Claims 19-21 were amended to a compressed tablet comprising a pharmaceutically effective agent and the polyalkyl amine (tablet core component). Claims 2-18 and 22 are now rejected over Holmes-Farley in view of John et al, clearly a different rejection of claims 13-16 than set forth in the previous Office action, but which rejection could have been made in the previous Office action. Therefor, making the Office action Final was improper in accordance with M.P.E.P. 706.07(a).

DECISION

Applicants' petition is **GRANTED.** The Finality of the last Office action, mailed July 29, 2002, is withdrawn. The Office action, which appears to be a complete action, is not withdrawn.

Applicants remain under obligation to reply to the Office action within the time period set therein or as may be extended in accordance with 37 CFR 1.136(a).

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

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 202:
www.uspto.g

Paper No. 6

Paula D. Morris
Attorney at Law
Paula D. Morris & Associates, P.C.
2925 Briarpark Drive, Suite 930
Houston, TX 77042

COPY MAILED

SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Lirio Quintero :
Application No. 09/691,589 : ON PETITION
Filed: October 18, 2000 :
Attorney Docket No. B154 12786 DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2002, to revive the above-identified application.

The petition is **DISMISSED.**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 17, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 18, 2002.

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

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

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

OR

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

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

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Paula D. Morris
Attorney at Law
Paula D. Morris & Associates, P.C.
2925 Briarpark Drive, Suite 930
Houston, TX 77042

COPY MAILED
DEC 17 2002
OFFICE OF PETITIONS

In re Application of	:	
Lirio Quintero	:	
Application No. 09/691,589	:	ON PETITION
Filed: October 18, 2000	:	
Attorney Docket No. B154 12786 DIV	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 8, 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 Restriction Requirement mailed December 17, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 18, 2002.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1712.

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 14 2005

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, Illinois 60606

In re Application of
Chisholm et al.
Application No. 09/691,649
Filed: October 17, 2000
Confirmation No.; 3572

: DECISION REQUESTING PTA
:CORRECTION PETITION

This decision is in response to applicants' "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT" filed on February 10, 2005 requesting that the Office review the determination of PTA at the time of the mailing of the notice of allowance. Applicants suggest that the proper amount of PTA is 543 days at the time of the mailing of the notice of allowance.

Applicants' request for PTA correction is **Granted.** The Office will adjust the PAIR calculation to reflect a determination of 543 days at the time of the mailing of the notice of allowance.

Applicants have submitted a request for the USPTO determine the value of the PTA at the time of the mailing of the notice of allowance. Applicants agree with the 630 days of additional PTA for the failure to initially act upon the application within 14 months of the filing date of the application under 37 CFR 1.702(a)(1). Applicants also agree with the 59 days of reduction against Patent term adjustment for the submission of a response under 37 CFR 1.704(b). Applicants further assert that the Office should have assessed an additional twenty-eight (28) days for the submission of a response to the final rejection on September 3, 2004.

Applicants arguments are persuasive. The file history reflects that the Office mailed a final rejection on May 3, 2004 that was responded to on September 3, 2004 by the submission of an RCE pursuant to 37 CFR 1.114. Accordingly, applicants should have been assessed a twenty-eight day reduction pursuant to 37 CFR 1.704(b).[1] Accordingly, the overall PTA determination at the time of the mailing of the notice of allowance is five hundred and forty-three days (543) (630-(28 + 59) = 543).

The Office thanks applicants for bringing this error to the attention of the Office. In addition, the Office thanks applicants for their good faith and candor. Accordingly, the Office will not assess any fees associated with bringing this matter to the attention of the matter.

The Office notes that any delays in issuing the patent more than 4 months after the payment of the issue fee and other requirements being satisfied will be added at the time of the issuing of the patent and will be reflected in the issue notification letter that is mailed to applicants

[1]Reduction should have begin on August , 7 2004 and ended on September 3, 2004, a twenty-eight day reduction.

approximately three weeks prior to the issue date.

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.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

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

cc: Adjusted Pair Calculation

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

OCT 6 2001

#4

FORREST L. COLLINS
P.O. BOX 41040
BRECKSVILLE, OH 44141-0040

In re Application of	:	
Joseph E. Coury et al	:	DECISION ON PETITION
Serial No.: 09/691,713	:	
Filed: October 18, 2000	:	
For: Personal Gas Supply Delivery System	:	

This is in response to applicants' petition filed September 14, 2001, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based upon applicant's health as well as environmental.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, III and 708.02, V. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR 14 2004

Edward R Gates
Wolf Greenfield & Sacks PC
600 Atlantic Ave
Boston MA 02210

In re application of Paula M. Vertino	:
Serial No. : 09/691,763	: DECISION ON PETITION
Filed : October 18, 2000	:
Attorney Docket No.: E0355/70030ERG/MAT	:

This is in response to applicant's petition, filed June 27, 2003 under 37 CFR 1.181, to withdraw the abandonment of the above identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a Notice of Allowance and Issue Fee Due, setting a three month statutory period for reply, and a Notice of Allowability, setting a three month shortened statutory period for reply, to applicant on January 16, 2003. Applicant states that the Notices were never received, and provides copies of docket records which indicate non-receipt of the Notices. In view of this evidence, the Notice of Abandonment mailed June 17, 2003 is vacated and the application is restored to pending status with the mailing of this decision.

The Request to Withdraw Abandonment under 37 CFR 1.181 is **GRANTED**.

The application will be forwarded to the examiner for prompt mailing of a new Notice of Allowance and Issue Fee Due and the Notice of Allowability.

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

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

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. 8

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

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APR 10 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
In Sool Chung et al :
Application No. 09/691,784 :
Filed: October 18, 2000 :
Attorney Docket No. 0939H-071110US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2003, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **Granted**.

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 6, 2000, which set a period for reply of two (2) months. Therefore, a reply was due on or before February 6, 2001.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 12, 2001 of a "Response to Notice of Missing Parts." Additionally, petitioner has supplied a copy of the previously mailed correspondence which bears a certificate of mailing date of February 9, 2001.

The reply acknowledged as having been received in the USPTO on February 12, 2001 (certificate of mailing date February 9, 2001) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

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

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Therefore, the $1300.00 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

Pursuant to petitioner's authorization, Deposit Account No. 20-1430 was charged a total of $1,030.00 --$710 for the basic filing fee, $80.00 for extra claim, $130.00 surcharge fee and $110.00 for one month extension of time.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 7

MAIL

OCT 11 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ON PETITION

ALLAN RATNER
RATNER & PRESTIA
PO BOX 980
VALLEY FORGE PA 19482

In re Application of:
Tan, Thiow Keng
Application No. 09/691,858
Filed: October 18, 2000
For: VIDEO CODING METHOD AND DECODING METHOD AND DEVICES THEREOF

This is a decision on the petition filed September 3, 2002 under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on June 19, 2001. A Notice of Abandonment was mailed on August 26, 2002.

Petitioner alleges to have timely filed a response to said Office Action. In support, Petitioner has provided a copy of a date-stamped post card receipt acknowledging receipt of the amendment in the U.S. Patent and Trademark Office on May 2, 2002. Petitioner submitted a copy of the response on September 3, 2002.

The original response 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 items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the amendment was received in the Office but was not matched with the application file.

The date stamped on the post-card of May 2, 2002, is after the due date for the response. However, under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d): and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment bears a proper certificate of mailing in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the Holding of Abandonment withdrawn.

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

The application file will be forwarded to Technology Center technical support staff for entry of the response, the one-month extension of time, the substitute declaration by the inventor and a copy of the offer to surrender the patent, provided with this petition. From there, the application file will be forwarded to the examiner for further action in due course.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications
(703) 305-9700

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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
PROCTOR.	:	
Application No. 09/691,874	:	DECISION ON PETITION
Filed: October 19, 2000	:	TO WITHDRAW
Attorney Docket No. 2479.2009-000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee discharged firm and requested transfer of file", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG, PC**
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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SEP 04 2007

OFFICE OF PETITIONS

In re Application of :
PROCTOR, James A., Jr. :
Application No. 09/691,874 :
Filed: October 19, 2000 :
Attorney Docket No. 2479.2009-000 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 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 David Thidodeau, Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

[The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 16, 2007 that requires a reply from the applicant

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: JAMES A. PROCTOR, JR.
440 MOSSWOOD BOULEVARD
INDIALANTIC, FL 32903

cc: VOLPE AND KOENIG, PC
30 S. 17TH STREET, SUITE 1600
UNITED PLAZA
PHILADELPHIA, PA 19103

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

Janal M. Kalis
Schwegman, Lundberg, Woessner & Kluth, P.A.
P. O. Box 2938
Minneapolis, MN 55402

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Mark H. Theno	:	
Application No. 09/691,896	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. 1335.001US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 May 23, 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 August 24, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1600, Art Unit 1617 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 9/25/08

TO SPE OF : ART UNIT ~~1619~~ 1627

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/691896 Patent No.: 7396935 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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Padmanabhan 1627
SPE **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office
SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6931199	2005-08-16	09691951	2000-10-19	SONYJP 3.0-727

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Lawrence E. Russ/	Date (YYYY-MM-DD)	2010-01-20
Name	Lawrence E. Russ	Registration Number	35342

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6931199
Issue Date: August 16,2005
Application No. 09691951
Filed: October 19,2000
Attorney Docket No. 7217/62902

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

This is a decision on the electronic petition, filed January 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 15 2003
Mailed:_____

THM
Paper Number: 14

In re application of
Schaevitz et al.
Serial No. 09/691,957
Filed: October 18, 2000
For: EFFICIENT MICROFLUIDIC SEALING

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, filed February 4, 2003. The petition requests that the holding of abandonment for failure to respond to the Office action of October 24, 2002 be vacated. The petitioner asserts that the applicants did not receive such an Office action.

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 Office action mailed October 24, 2002, was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed this paper was not received. Also provided is a copy of the attorney's application docket records where the letter would have been posted had it been timely received.

In light of this evidence, 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 above noted Office action and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

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

Peter Dehlinger
IOTA PI Law
350 Cambridge Avenue
Suite 250
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DEPARTMENT
SKADDEN ARPS SLATE MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK NY 10036

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of	:
Handa, et al.	: DECISION GRANTING PETITION
Application No. 09/692,029	: AND WITHDRAWING THE
Filed: September 19, 2000	: HOLDING OF ABANDONMENT
Attorney Docket No. ICOR-002-CIP	:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181", filed January 18, 2006, which is being treated as a petition under 37 CFR 1.181.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 25, 2004. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the above-identified application became abandoned on November 26, 2004. A Notice of Abandonment was mailed on March 14, 2005.

Petitioner asserts that he did file a timely response. In support thereof, petitioner has submitted a copy of the response, together with a postcard receipt, itemizing a "Response/Amendment", and bearing a USPTO date stamp dated January 10, 2005. However, the postcard receipt and the response were directed to application no. 09/629,029 not 09/692,029. A review of the response reveals that it contained an authorization to charge a two month extension of time to the deposit account.

As set forth in the Manual of Patent Examining Procedure § 724.05:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. **application number, filing date, title of invention and inventor(s) name(s)**), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Here, the response contained the incorrect application number. However, it did contain the correct filing date and the last name of the first inventor. The title of the invention was missing. Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

Given the basis for granting this petition, no petition fee was required, and none has been charged. However, Deposit Account No. 19-2385 has been charged the sum of $210 for the two month extension of time.

The matter is being forwarded to Group Art Unit 3628 for consideration of the response filed January 10, 2005 (copy re-supplied with the petition filed January 18, 2006).

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-11-07

TO SPE OF : **Technology Center** 2168

09/692031

SUBJECT : Request for Certificate of Correction on Patent No.: 7236970 B1

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

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

Thank You For Your Assistance

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

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

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

Comments:

Tim Vo
SPE

2168
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Baker & Botts
30 Rockefeller Plaza
New York, NY 10112

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AUG 2 7 2001

OFFICE OF PETITIONS

In re Application of
Jae-Hong Park et al.
Application No. 09/692,065
Filed: October 19, 2000
For: Method for Processing Synchronous Message in Asynchronous Mobile Communication System

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

This is a decision on the petition under 37 CFR 1.47(a) filed June 1, 2001, and supplemented on August 22, 2001.

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

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

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

After the mailing of this decision, the file will be forwarded to 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

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AUG 2 7 2001

OFFICE OF PETITIONS

RECEIVED

DEC 2 1 2001

Technology Center 2600

Woon-Hee Hwang
Keilalahdentie, 4
FIN-02150
Espoo, Finland

In re Application of
Jae-Hong Park, Ho-Geun Lee, Jeong-Hwa Ye, Yu-ro Lee and Woon-Hee Hwang
Application No. 09/692,065
Filed: October 19, 2000
For: Method for Processing Synchronous Message in Asynchronous Mobile Communication System

Dear Ms. Hwang:

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
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

RECEIVED

DEC 1 8 2001

OFFICE OF PETITIONS

cc: Baker & Botts
30 Rockefeller Plaza
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

DEC 21 2004

Holly D. Kozlowski
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati OH 45202

In re Application of: Small et al. Serial No.: 09/692,077 Filed: October 19, 2000 Attorney Docket No.: 13105	: : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on October 28, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed March 11, 2004.

A review of the file history shows that the examiner mailed a non-final Office action to applicants on March 11, 2004, setting a three-month statutory time period for reply. On September 22, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on September 13, 2004 as evidenced by a copy of the date-stamped receipt card. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the response of September 13, 2004.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for
Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Barry R. Lipsitz
Law Offices of Barry R. Lipsitz
755 Main Street, Building 8
Monroe, CT 06468

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JUN 23 2008
OFFICE OF PETITIONS

In re Patent No. 6,888,943	:	
Issue Date: May 3, 2005	:	
Application No. 09/692,084	:	NOTICE
Filed: October 19, 2000	:	
Patentee(s): Katherine S. Lam, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 15, 2008. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication 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

BEVERIDGE DeGRANDI WEILACHER & YOUNG LLP
1850 M STREET NW, SUITE 800
WASHINGTON, DC 20036

COPY MAILED

MAR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Tasashi Ono et al	:	
Application No. 09/692,312	:	DECISION GRANTING PETITION
Filed: October 20, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 33216M059	:	

This is a decision on the petition, filed March 16, 2006,[1] under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 25, 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.[2]

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\692312.wpd

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[1] The petition evidenced as having been filed on February 9, 2006 has not to date been associated with this file. However, finance records indicate receipt of the $790 RCE fee and the $130 petition fee.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 16, 2006

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/692346 patent No.: ~~6,692,346~~ 6,941,350

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2153

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 2110
AUSTIN, TX 78759

COPY MAILED

MAY 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Renato John Recio et al	:	
Application No. 09/692,350	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. AUS920000621US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2007, 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 Office action mailed June 6, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2005.

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

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

Mail Date: 04/20/2010

Applicant	: Orvalle Theodore Kirby	: DECISION ON REQUEST FOR
Patent Number	: 7636772	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/692,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2875** 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 25, 2006

TO SPE OF : ART UNIT 2155

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/692394 Patent No.: 6,968,356

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: All minor changes not affecting the scope - BRS

SPE

2155

Art Unit

Bruckart, Benjamin

From: Talley, Magdalene
Sent: Tuesday, July 25, 2006 2:35 PM
To: Bruckart, Benjamin
Cc: Najjar, Saleh
Subject: Outstanding Request for certificate of correction- Ser. N. 09/692394-6,968,356

The above patent no. 6,968,356 was sent to your location art unit 2155 on May 25,2006. This file is needed to process
an outstanding request. Please fill out the Ptol 306 form in the EDAN and have it scanned back to me.

Thanks for your immediate response.

Magdalene Talley
Legal Instrument Examiner
(703)-308-9390 ext. 116

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:07202005

DATE : July 20, 2005

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6,897,288 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:

Christina Chan

SPE: Christina Chan **Art Unit** 1644

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#9

MAILED

JAN 13 2003

Office of the Director
Group 3600

William B. Patterson
Thomas, Moser & Patterson, LLP
Suite 1500
3040 Post Oak Boulevard
Houston, TX 77056

In re Application of
John Emile Hebert et al.
Application No. 09/692,592
Filed: October 19, 2000
For: COMPLETION APPARATUS AND METHODS FOR USE IN HYDROCARBON WELLS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed with the United States Patent and Trademark Office (USPTO), on November 26, 2002. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failing to file a timely response to an Office communication dated December 5, 2001.

Applicant's petition includes a copy of a response bearing a Certificate of Facsimile Transmittal date of February 21, 2002. A statement by William B. Patterson was received within the petition, which attests under 37 CFR 1.8(b)(3) 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 Primary Examiner for prompt action on the merits of the application.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.

Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180
Facsimile No.: (703) 306-4598

SM: 1/12/03
SM

Copied from 09698592 on 24-02-2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANNE VACHON DOUGHTERY
3173 CEDAR ROAD
YORKTOWN HEIGHTS, NY 10598

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Lily Barkovic Mummert, et al.	:	
Application No. 09/692,596	:	DECISION ON PETITION
Filed: October 10, 2000	:	
Attorney Docket No. YOR920000461-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 30, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquires concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received February 2, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BETH READ
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of	:
Edward M. Housel	:
Application No. 09/692,645	: DECISION GRANTING PETITION
Filed: October 19, 2000	: UNDER 37 CFR 1.137(b)
Attorney Docket No. MBHB00-591	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

A Request for Continued Examination has been made of record and the required fee of $790 will be charged to deposit account no. 05-0225 as authorized. See MPEP 706.07(h).

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 RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply 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 2624.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

9-3-09

DATE _____ Paper No.: _____

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/692663 Patent No.: 7210270

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

FOR IFW FILES: Should COFC 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.

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

Comments: Applicants have failed to properly complete a form PTO-1050 identifying the corrections to be made, by Col. & line number of the printed patent. The desired changes listed for Cols. 5, 7, 9, & 12 in the letter of Oct. 9, 2007 have not been included on a form PTO 1050 & the change that was included fails to identify any location for the change, let alone by Col. and line number of the printed patent. Further, the reference to the application beginning at page 6, line 22, is unclear given that the specification, as was previously amended at page 6, no longer has a "line 22". A corrected Certificate of Correction request must be submitted and applicants should note the example found in MPEP 1485 in order to properly identify the changes desired and the location of such changes in the printed patent. It is also not seen that the fee for correcting applicants' mistakes has been charged.

/Daniel P. Stodola/ 3679
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

9-3-09

Paper No.: _____

DATE _____

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/642663 Patent No.: 7210270

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

FOR IFW FILES: Should COFC 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.

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

Comments: Applicants have failed to properly complete a form PTO-1050 identifying the corrections to be made, by Col. & line number of the printed patent. The desired changes listed for Cols. 5, 7, 9, & 12 in the letter of Oct. 9, 2007 have not been included on a form PTO 1050 & the change that was included fails to identify any location for the change, let alone by Col. and line number of the printed patent. Further, the reference to the application beginning at page 6, line 22, is unclear given that the specification, as was previously amended at page 6, no longer has a "line 22". A corrected Certificate of Correction request must be submitted and applicants should note the example found in MPEP 1485 in order to properly identify the changes desired and the location of such changes in the printed patent. It is also not seen that the fee for correcting applicants' mistakes has been charged.

/Daniel P. Stodola/ — SPE

3679 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO, IL 60680

MAILED

APR 16 2010

OFFICE OF PETITIONS

In re Application of
William John Delinsky, et al.
Application No.: 09/692,697
Filed: October 19, 2000
Attorney Docket No.: PEREGRIN-P1-00

ON PETITION

This is a decision in response to the petition, filed April 15, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, as supplemented on April 16, 2010.

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, 2010, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3691 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No. 6

FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Staines et al.	:	
Application No. 09/692,722	:	ON PETITION
Filed: 19 October, 2000	:	
Attorney Docket No. 199-0850	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] to revive the above-identified application filed on 30 June, 2003, which is first treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

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

---

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

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

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

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

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

This application became abandoned on 29 March, 2001, for failure to timely submit an oath or declaration and a surcharge for its late filing in response to the Notice to File Missing Parts of Nonprovisional Application mailed on 28 December, 2000, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed 15 May, 2003.

Petitioners assert that the Notice to File Missing Parts mailed on 28 December, 2000, was never received. A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Notice 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.[2] This showing may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

Although petitioners present a declaration by counsel's Patent Administrator, Saundra M. Lewis, that the Notice was never received, petitioners have not provided a statement by 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. Petitioners have also not provided a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed attached to and referenced in practitioner's statement.

As the showing of record is insufficient to merit withdrawal of the holding of abandonment, the petition under 37 CFR 1.181 is **dismissed.**

---

[2] See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES
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FEB 19 2002

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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#10

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
1300 I STREET NW
WASHINGTON DC 20005-3315

In re Application of Sandrine DeCoster et al Serial No.: 09/692,749 Filed: October 20, 2000 Attorney Docket No.: 05725.0782-00	PETITION DECISION TO RESTART PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR § 1.181, filed January 23, 2002, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a final Office action to applicants on December 13, 2001, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office action until January 9, 2002, more than one month after the mail date thereof, and provide copies of the docketing receipt stamped first page of the Office action as evidence thereof. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed December 13, 2001, is hereby restarted as of applicants' date of receipt, January 9, 2002. The time period for reply remains as set therein.

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

John Doll
Director, Technology Center 1600

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OFFICE OF PETITIONS

Finnegan HendersonFarabow Garrett & Dunner
901 New York Avenue, NW
Washington DC 20001-4413

In re Application of
Decoster et al
Application No. 09/692,749
Filed: October 20, 2000

: LETTER REGARDING PTA

This decision is in response to Applicants' "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT)" filed on December7, 2006 asserting that applicants believe that they received too much PTA at the time of the mailing of the notice of allowance. Applicants believe that the correct amount of PTA is 295 days.

The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED-in part.** The Office will adjust the amount of APPLICANT DELAY from 269 days to 360 days. Overall, the determination of PTA at time of mailing of notice of allowance is two hundred and ninety-six (296) days.

Applicants assert that the amount of PTA at the time of the mailing of the notice of allowance is 295 days. Applicants do not provide detail as to how such number is arrived.

The Office agrees that too much PTA was awarded at the time of the mailing of the notice of allowance. The Office notes that the Office missed the requirement of 37 CFR 1.702(a)(1) by a period of 656 days. The Office notes that applicants failed to engage in reasonable efforts to conclude prosecution on four occasions under 37 CFR 1.704(b). The Office assessed three of these occasions on the PTA determination for reductions of 88, 91 and 90 days. However the PTA calculation failed to assess a reduction under 37 CFR 1.704(b) for the submission of an RCE on July 9, 2002.[1] The amount of delay that should have been assessed is 91 days. Accordingly, the correction amount of applicant delay is 360 (91 +90 +88 +91=360) days. The amount of Office delay is 656 days. Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is 296 days.

Any additional delays under 37 CFR 1.702(a)(4) and 37 CFR 1.702(b) will be added at the time

[1]The delay began on April 10, 2002, three months after the clock was restarted on Janaury 9, 2002 and ended on July 9, 2002. The Office notes that the amendment after final rejection on 4/18/2002 did not stop the clock as to responding within three months of the final rejection because such amendment did not place the application in condition for allowance.

of the issuance of the patent and notice will be mailed to applicants in the Issue Notification letter that is mailed approximately three weeks prior to issuance.

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery 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

Day : Saturday
Date: 4/14/2007

PALM INTRANET

Time: 14:35:29

PTA Calculations for Application: 09/692749

Application Filing Date:	10/20/2000	PTO Delay (PTO):	656
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	269
Post-Issue Petitions:	0	Total PTA (days):	296
PTO Delay Adjustment:	-91		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	04/14/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
89	11/24/2006	MAIL NOTICE OF ALLOWANCE			
88	11/22/2006	PARALEGAL TD ACCEPTED			
87	11/22/2006	ISSUE REVISION COMPLETED			
86	11/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	11/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
84	11/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
83	11/22/2006	NOTICE OF ALLOWABILITY			
82	10/31/2006	MISCELLANEOUS INCOMING LETTER			
81	09/01/2006	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	656		63
80	08/31/2006	BPAI DECISION - EXAMINER AFFIRMED IN PART			
79	03/21/2006	REQUEST FOR ORAL HEARING			
78	03/21/2006	CONFIRMATION OF HEARING BY APPELLANT			
77	03/10/2006	NOTIFICATION OF APPEAL HEARING			
76	01/26/2006	DOCKETING NOTICE MAILED TO APPELLANT			
75	01/26/2006	ASSIGNMENT OF APPEAL NUMBER			
74	12/28/2005	APPEAL AWAITING BPAI DOCKETING			
73	10/19/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
72	10/17/2005	REPLY BRIEF NOTED BY EXAMINER			
71	08/03/2005	REQUEST FOR ORAL HEARING			
70	08/10/2005	DATE FORWARDED TO EXAMINER			
69	08/03/2005	REPLY BRIEF FILED			
68	06/03/2005	MAIL EXAMINER'S ANSWER			

67	05/31/2005	EXAMINER'S ANSWER TO APPEAL BRIEF			
66	03/18/2005	DATE FORWARDED TO EXAMINER			
65	03/08/2005	APPEAL BRIEF FILED			
64	03/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	11/15/2004	NOTICE OF APPEAL FILED		88	55
62	11/15/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
61	10/06/2004	MAIL ADVISORY ACTION (PTOL - 303)			
60	10/01/2004	ADVISORY ACTION (PTOL-303)			
59	09/08/2004	DATE FORWARDED TO EXAMINER			
58	08/26/2004	AMENDMENT AFTER FINAL REJECTION			
57	08/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	08/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
55	05/19/2004	MAIL FINAL REJECTION (PTOL - 326)			
54	05/17/2004	FINAL REJECTION			
53	03/04/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
52	03/10/2004	DATE FORWARDED TO EXAMINER			
51	03/04/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	03/10/2004	DATE FORWARDED TO EXAMINER			
48	03/04/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	03/10/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	03/04/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	12/04/2003	NOTICE OF APPEAL FILED		91	43
44	12/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	06/04/2003	MAIL FINAL REJECTION (PTOL - 326)			
42	06/02/2003	FINAL REJECTION			
41	03/18/2003	DATE FORWARDED TO EXAMINER			
40	03/10/2003	RESPONSE AFTER NON-FINAL ACTION		90	38
39	03/10/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	09/10/2002	MAIL NON-FINAL REJECTION			
37	09/09/2002	NON-FINAL REJECTION			
36	07/19/2002	DATE FORWARDED TO EXAMINER			

35	07/09/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	07/19/2002	DATE FORWARDED TO EXAMINER			
33	07/09/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	07/19/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	07/09/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/09/2002	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	05/17/2002	MAIL ADVISORY ACTION (PTOL - 303)			
25	05/17/2002	ADVISORY ACTION (PTOL-303)			
24	04/30/2002	DATE FORWARDED TO EXAMINER			
23	04/18/2002	AMENDMENT AFTER FINAL REJECTION			
22	04/18/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	01/09/2002	RESTART RESPONSE FINAL REJECTION (PTOL - 326)			
20	02/19/2002	PETITION DECISION - GRANTED			
19	01/09/2002	RESTART RESPONSE FINAL REJECTION (PTOL - 326)			
18	01/23/2002	PETITION ENTERED			
17	01/31/2002	CASE DOCKETED TO EXAMINER IN GAU			
16	12/13/2001	MAIL FINAL REJECTION (PTOL - 326)			
15	12/13/2001	FINAL REJECTION			
14	10/11/2001	DATE FORWARDED TO EXAMINER			
13	10/02/2001	RESPONSE AFTER NON-FINAL ACTION			
12	07/02/2001	CASE DOCKETED TO EXAMINER IN GAU			
11	07/05/2001	MAIL NON-FINAL REJECTION			
10	07/02/2001	NON-FINAL REJECTION			
9	06/27/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	04/26/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	10/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	04/23/2001	APPLICATION DISPATCHED FROM OIPE			
5	04/20/2001	APPLICATION IS NOW COMPLETE			
4	12/11/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/08/2000	CORRESPONDENCE ADDRESS CHANGE			
2	11/17/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	10/20/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 16

Pietragallo, Bosick and Gordon
One Oxford Centre
38th Floor
301 Grant Street
Pittsburgh, PA 15219-6404

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AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Donna Galvin	:	
Application No. 09/692,762	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. 281241-00001-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2002, 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 3676 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

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C/O CHRISTIAN R ANDERSEN
600 HIDDEN RIDGE DR
MAILCODE HQE03H14
IRVING TX 75038

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OFFICE OF PETITIONS

In re Application of	:	
Walter Wesley Howe	:	
Application No. 09/692,804	:	DECISION ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. 98-004CIP1RCE1	:	

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed October 13, 2005.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed July 8, 2005. This Notice set a statutory period for reply of three months for issue fee transmittal. No extensions of time under 37 CFR 1.136(a) were available. No issue fee having been received, the above-identified application became abandoned on October 9, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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

The instant petition lacks item (2). Petitioner did not include the $1,500 petition fee or include an authorization to charge it to his deposit account.

Further correspondence concerning this application should be addressed as follows:

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

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

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

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

VERIZON CORPORATE SERVICES GROUP
C/O CHRISTIAN R ANDERSEN
600 HIDDEN RIDGE DR
MAILCODE HQE03H14
IRVING TX 75038

In re Application of	:	
Walter Wesley Howe	:	
Application No. 09/692,804	:	DECISION ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. 98-004CIP1RCE1	:	

This is a decision on the renewed petition to revive the above-identified application under 37 CFR 1.137(b), filed January 25, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed July 8, 2005. This Notice set a statutory period for reply of three months for issue fee transmittal. No extensions of time under 37 CFR 1.136(a) were available. No issue fee having been received, the above-identified application became abandoned on October 9, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment. Applicant filed a petition to revive under 37 CFR 1.137(b) on October 13, 2005. However, the petition was dismissed in a decision mailed on December 2, 2005, because applicant did not submit the petition fee.

With the instant request for reconsideration, petitioner has submitted the petition fee. The other requirements for a grantable petition under 37 CFR 1.137(b) were previously met with the petition filed October 13, 2005.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Mailed: JUL 29 2002

glm

Paper No. 7

In re application of
Mourao et al.
Serial No. 09/692,824
Filed: October 19, 2000
For: METHOD TO INCREASE THE ADHERENCE OF COATING MATERIALS ON FERROUS MATERIALS

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE AN OFFICE ACTION, filed May 28, 2002, requesting withdrawal of any holding of abandonment which may be issued for failure to response to the Office action of November 9, 2001. Petitioner asserts that the Office action was not received. No actual Notice of Abandonment has as yet been mailed.

DECISION

Since petitioner asserts that the Office action was not received, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the evidence provided with the instant petition indicates that the request cannot be granted.

The showing required to establish failure to receive an Office Action must consist of 1) a statement from the practitioner attesting to the fact that the Office Action was not received 2) a statement that a search of the file jacket and docket records was performed and indicates that the Office Action was not received, and 3) copy of the docket record where the nonreceived Office Action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement. See MPEP 711.03(c). Petitioner has indeed satisfied these requirements, yet other evidence of record precludes granting the petition.

This application was filed with a correspondence address of:

Helfgott & Karas, P.C.
Empire State Building, 60th Floor
New York, NY 10118-0110

This address remained unchanged until the instant petition was filed on May 28, 2002, at which time a 'change of correspondence information' was filed which requested that future correspondence be addressed to:

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

The petition and change of address also include reference to customer number 026304. However, there is no evidence in the record that this application was previously associated with any customer number, or that any attempt to change the correspondence address was made prior to the instant petition. Also, the docket records provided by applicant do not show that any change of address form or similar paper were ever filed. The petition is silent as to when applicant moved from the old to the new address, and is silent as to which address would have been correct as of November 9, 2001, the mailing date of the Office action. On this record, it cannot be positively determined if the Office action was mailed to the correct address and simply not received, mailed to an incorrect address due to an Office error, or mailed to an incorrect address due to applicant's failure to promptly file a change of address, in which case the application is properly abandoned. However, according to Office records, several other applications being handled by petitioner include changes of address dated in the last week of October, 2001.

It thus appears that the Office action was mailed to the old address, still of record, at a time when applicant was located at the new address. Since it is applicant's responsibility to promptly inform the Office of any change of address (see MPEP 601.03), and applicant apparently failed to do so, this application is properly abandoned absent further evidence to the contrary.

Applicant may wish to consider filing a supplemental petition including either evidence of an attempt to change the correspondence address on or before the mailing date of the Office action, or that the old mailing address was correct as of that date.

In the meantime, the case will be forwarded to the examiner for mailing of a Notice of Abandonment.

The Petition is <u>DENIED</u>.

Richard V. Fisher

Richard Fisher, Director
Technology Center 1700
Chemicals and Materials Engineering

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. ___

In re application of
Mourao et al.
Serial No. 09/692,824
Filed: October 19, 2000
For: METHOD TO INCREASE THE ADHERENCE OF COATING MATERIALS ON FERROUS MATERIALS

DECISION ON PETITION

This is a decision on the SUPPLEMENTAL PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE AN OFFICE ACTION, originally filed August 7, 2002 (subsequently re-filed on June 2, 2003), requesting withdrawal of any holding of abandonment which may be issued for failure to response to the Office action of November 9, 2001. Petitioner asserts that the Office action was not received.

DECISION

Since petitioner asserts that the Office action was not received, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the evidence provided with the instant petition indicates that the request has merit.

The showing required to establish failure to receive an Office Action must consist of 1) a statement from the practitioner attesting to the fact that the Office Action was not received 2) a statement that a search of the file jacket and docket records was performed and indicates that the Office Action was not received, and 3) copy of the docket record where the nonreceived Office Action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement. See MPEP 711.03(c). Petitioner has previously satisfied these requirements.

Additionally, petitioner has provided evidence that the mailing address of record was correct as of the mailing date of the Office action, thus annulling the concerns expressed in the petition decision of July 29, 2002.

Lastly, it is noted that the instant petition is considered timely, inasmuch as it was originally filed on August 7, 2002.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the examiner for prompt remailing of the Office action and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone

Jacqueline Stone, Director
Technology Center 1700
Chemicals and Materials Engineering

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

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OFFICE OF PETITIONS

In re Application of Douglas J. COWELL et al. Application No. 09/692,926 Filed: October 20, 2000 Attorney Docket No. 00-5019	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 30, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

The power of attorney filed by the assignee with the petition on May 26, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2100

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

Paper No. 13

Crawford Maunu PLLC
1270 Northland Drive, Suite 390
Saint Paul, MN 55120

In re Application of: Archibald, Jr. et al. Application No.: 09/692,957 Filed: October 20, 2000 Attorney Docket No.: SJO920000056US1 For: METHOD AND APPARATUS FOR USING EXTENDED DISK SECTOR FORMATTING TO ASSIST IN BACKUP AND HIERARCHICAL STORAGE MANAGEMENT	**DECISION GRANTING PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8**

This decision is in response to the petition under 37 CFR §1.181 to withdraw the holding of abandonment filed on July 15, 2004. The request is being considered a petition to accept papers as timely filed under 37 CFR §1.8.

In support of the petition, petitioners have provided a statement as to the events subsequent to the receipt of the advisory action mailed September 5, 2003. The Office in fact, received the Notice of Appeal on September 26, 2003. However, there is no record of the Appellants' Brief in the application file. The petition includes three copies of the Appellants' Brief and a copy of a return postcard bearing the stamped entry of December 24, 2003.

A postcard receipt serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on December 24, 2003. The Office failed to match the response to the application file.

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error. It is noted transmittal letter that accompanied the petition contains a header at the very top for "S/N 09/514,881." Applicants are advised not to include other application numbers on papers filed with the Office in order to avoid confusion in matching papers properly.

The application will be forwarded to the Technical Support Staff for processing of appellants' brief and request for extension of time. Thereafter, the application will be forwarded to the examiner for consideration of the communication.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

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Paper No. 8

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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NOV 0 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Bruce E. Randall	:	
Application No. 09/693,025	:	ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. 99P7935US011505-0093	:	

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 granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 10, 2002, which set a shortened statutory period for reply of One (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 11, 2002.

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

The application file is being forwarded to Technology Center AU 3661 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: Maginot Moore & Beck
Bank One Center / Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115

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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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MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

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OFFICE OF PETITIONS
ON PETITION

In re Application of	:
Gregory M. Callis et al	:
Application No. 09/693,027	:
Filed: October 20, 2000	:
Attorney Docket No. 5577-215	:

This is a decision on the petition under 37 CFR 1.313, filed November 15, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 3, 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 2144 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

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OFFICE OF PETITIONS

PEARSON & PEARSON, LLP
10 GEORGE STREET
LOWELL, MA 01852

In re Patent No. 6,806,622	:	
Issue Date: October 19, 2004	:	
Application No. 09/693,034	:	ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. 32444	:	

The above-identified patent has been referred to the Office of Petitions for consideration of a March 23, 2009 "Petition to Revive Abandoned Application Under 37 C.F.R. 1.137(b) Unintentional" that transmitted $2,130 in an expired patent. The petition is more appropriately being treated under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 19, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

Further, the petition is found to comply with the requirements of 37 CFR 1.378(c) in that petitioner has supplied (1) a statement that the delay was unintentional; (2) payment of the $490 maintenance fee; and (3) payment of the $1,640 surcharge.

Accordingly, the 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 15

Silverbrook Research Pty. Ltd.
393 Darling Street
Balman, 2041
Austrialia

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DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Gregory J. McAvoy :
Application No. 09/693,079 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. MJ20US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 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 June 3, 2003, which set a shortened statutory period for reply of One Month or Thirty Days from the mailing 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 July 4, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $420 extension of time submitted with the petition on October 24, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded in due course.

The application file is being forwarded to Technology Center AU 1775.

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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2-041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of		
Silverbrook et al.	:	
Application No. 09/693,083	:	
Filed: October 20, 2000	:	NOTICE
Patent No. 6,859,225	:	
Issued: February 22, 2005	:	
Attorney Docket Number:	:	
ART81US	:	

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

In re Application of	:	
Nelson Phero	:	
Application No. 09/693,096	:	ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 14, 2002.

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

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

The application file is being forwarded to Technology Center 3721 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

Office Action Summary	Application No.	Applicant(s)	
	09/693,096	PHERO, NELSON	
	Examiner	Art Unit	
	Thanh K. Truong	3721	

-- 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 *01 March 2007*.

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) *9-11,15 and 16* 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) *9-11, 15 and 16* 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/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on October 16, 2006.

2. Applicant's cancellation of claims 1-8 and 12-14 is acknowledged.

3. Examiner's note: in light of a broader interpretation of the reference of record, the allowable subject matter indicated in the previous office action (mailed February 13, 2002) has been reviewed, and hereby withdrawn. Accordingly, this is a non-final office action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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

5. Claim 15 and 16 re rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "a brake assay", line 7, is vague and indefinite, because it is unclear what is "a brake assay". For the purpose of further advancing the examination of the claim, it is construed the term as "a brake assembly".

Claim Rejections - 35 USC § 102

6. 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.

7. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Riemenschneider, III (4,535,951).

Riemenschneider discloses an apparatus comprising:

a pole (22); a sleeve (25), disposed on the pole; a plug (24) disposed on the pole; a plate (21) disposed on the pole; and holes (27) in the sleeve (both sides of the sleeve have holes – figure 5), and holes (28) along the pole (figure 5); and wherein the holes along the pole correspond to holes in the sleeve (figure 5).

Alternatively, Riemenschneider can also be interpreted as following:

8. Claims 9-11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Riemenschneider, III (4,535,951).

Riemenschneider discloses an apparatus comprising:

a pole (32);

a sleeve (34 or 42), disposed on the pole;

a plug (29 or 38) disposed on the pole;

a plate (21 or 37) disposed on the pole; and holes in the sleeve (sleeve (42) has a hole there through to receive the thread (39), and the sleeve (34) also has holes to receive pin (35) – figures 4 & 5), and holes (40 or holes not number at bottom of pole (32) to receive pin (35)) along the pole (figure 5); and

wherein the holes along the pole correspond to holes in the sleeve (hole (40) of the pole (32) correspond with hole in the middle of sleeve (42); and hole at the bottom end of pole 32 correspond with hole on the side of sleeve (34) to receive the pin (35) - see figures 4 & 5);

a brake assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) disposed on the pole (the assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) provides a clamping force on the core holders and thus controls the rotation of the spool and therefore being construed as a brake assembly – column 4, lines 50-55); and

wherein the brake assembly communicates with the spool (12).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkt
August 7, 2007.

Thanh Thac Truong

THANH K. TRUONG
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Jeffrey Schlom	: DECISION ON REQUEST FOR
Patent Number	: 7598225	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/693,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **404** 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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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 05/17/2010

Applicant : Jeffrey Schlom
Patent Number : 7598225
Issue Date : 10/06/2009
Application No : 09/693,121
Filed : 10/20/2000

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of
Silverbrook, Kia
Application No. 09/693,135
Filed: July 7, 2003
Attorney Docket No. MJ21US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 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 October 4, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 5, 2002. A Notice of Abandonment was mailed on December 21, 2002.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $110.00 extension of time fee submitted with the petition on July 7, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

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

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. 810

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of
Silverbrook, Kia
Application No. 09/693,135
Filed: July 7, 2003
Attorney Docket No. MJ21US

ON PETITION

CORRECTED DECISION

This is a corrected decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 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 October 4, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 5, 2002. A Notice of Abandonment was mailed on December 21, 2002.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $110.00 extension of time fee submitted with the petition on July 7, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and a refund check will be mailed to petitioner.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

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

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
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SEP 04 2003
OFFICE OF PETITIONS

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901

In re Application of
Edmund Gress
Application No. 09/693,145
Filed: October 20, 2000
Attorney Docket No. 0001398USU

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed August 22, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on June 27, 2001 and set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 28, 2001. A Notice of Abandonment was mailed on January 31, 2002.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

The Request for Continued Examination (RCE) and the amendment submitted on August 22, 2003 will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

SECTOR #

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box ⟶ [+]

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OIPE JC143
FEB 0 9 2001
PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/693,204
Filing Date	10/19/2000
First Named Inventor	WARRINGTON
Group Art Unit	1645
Examiner Name	TBD
Attorney Docket Number	3240.1

Total Number of Pages in This Submission: 13

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [x] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) *(please identify below)*:

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	Philip L. McGarrigle, Reg. No. 31,395
Signature	Philip McGarrigle
Date	2/2/2001

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 2/2/2001

Typed or printed name	Doreen Loffredo		
Signature	[signature]	Date	2/2/2001

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

PTO/SB/17 (11-00)
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FEE TRANSMITTAL for FY 2001

OIPE JC143 FEB 0 9 2001 PATENT & TRADEMARK OFFICE

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 170

Complete if Known	
Application Number	09/693,204
Filing Date	10/19/2000
First Named Inventor	WARRINGTON
Examiner Name	TBD
Group / Art Unit	1645
Attorney Docket No.	3240.1

METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 01-0431

Deposit Account Name: AFFYMETRIX, INC.

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1) ($) 0

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims		-20	= 0	X		=	0
Independent Claims		-3	= 0	X		=	0
Multiple Dependent				X		=	0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	130	123	130	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify)	

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 170

SUBMITTED BY

Complete *(if applicable)*

Name (Print/Type)	Philip L. McGarrigle	*Registration No. Attorney/Agent)*	31,395	*Telephone*	(408) 731-5021
Signature	Philip L. McGarrigle			*Date*	02/02/2001

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.

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2/3

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/693,204	10/19/2000	Janet A. Warrington	3240.1

22886
AFFYMETRIX, INC
3380 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

OIPE JC143
FEB 0 9 2001
PATENT & TRADEMARK OFFICE

FORMALITIES LETTER

OC000000005614526

Date Mailed: 12/12/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is 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 $ 130.**

A copy of this notice MUST be returned with the reply.

Haimanot Tegbaru
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

02/13/2001 BNGUYEN1 00000056 010431 09693204
01 FC:105 130.00 CH

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JJGJr.:11-02

Paper 9

TOWNSEND AND
TOWNSEND AND CREW LLP
ATTN: WILLIAM B KEZER
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Petrie, et al	:	DECISION ON PETITION
Application No. 09/693,213	:	
Filed: 19 October, 2000	:	
Attorney Docket No. 17682A-005100US	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 16 January 2001, but not delivered to the Office of Petitions until this writing.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTE: Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response (with fee) should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and

---

[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(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.
© 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).
[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; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

may include an oath or declaration executed by the inventor.

Failure to respond within the time set forth above will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 19 October, 2000, without, *inter alia*, a fully executed oath or declaration;
- in response to a 15 November, 2000, Notice to File Missing Parts, on 16 January, 2001, Petitioner filed (over a 12 January, 2001, certificate of mailing) the instant petition and fee, a statement in support, and a oath/declaration signed by inventors, save co-inventor Gerald D. Hurst (Mr. Hurst);
- the record clearly suggests that a copy of the entire application (specification (description, claims, abstract) and drawings) was not sent to non-signing co-inventor Mr. Hurst, and there is certainly no explicit evidence of such in the form of a copy of the transmittal letter;
- the petition and statement of Counsel do not clarify this matter;
- a call was made to the Counsel's office on 19 November, 2002, to review this matter with him and request the requisite evidence (i.e., transmittal letters).

ANALYSIS

A copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted. (Additionally, Petitioner must state for the record that last known address. A forwarding address should be requested if the papers are returned, and other attempts to locate the inventor (e.g. through e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.)

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47

applicant is required.[2]

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

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

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

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

[2] See: MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JJGJr.:12-02

Paper 12

TOWNSEND AND
TOWNSEND AND CREW LLP
ATTN: WILLIAM B KEZER
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED
DEC 0 9 2002
OFFICE OF PETITIONS

In re Application of	:	
Petrie, et al	:	DECISION ON PETITION
Application No. 09/693,213	:	
Filed: 19 October, 2000	:	
Attorney Docket No. 17682A-005100US	:	

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 27 November, 2002, and supplemented on 3 December, 2002.

Petitioner has shown that, while all other inventors have signed the oath/declaration, the non-signing inventor **Gerald D. Hurst (Mr. Hurst)**--misidentified in the renewed petition as Gerald S. Hurst--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 Joel G. Ackerman (Reg. 24,307)

---

[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(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.
© 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).
[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; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

and William B. Kezer (Reg. No. 37,369) establishes 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 he 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)**.[2]

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 returned to Technology Center 1600 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
Office of the Deputy Commissioner
for Patent Examination Policy

[2] Pursuant to Petitioner's authorization, the petition fee ($130.00) for this renewed petition is charged to Deposit Account 20-1430.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr.:12-02

Paper 13

GERALD D. HURST
39 PAINTED SUNSET
THE WOODLANDS, TX 77380

COPY MAILED

DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Petrie, et al : CORRESPONDENCE
Application No. 09/693,213 :
Filed: 19 October, 2000 :
Attorney Docket No. 17682A-005100US :

Dear Gerald D. Hurst:

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,[1] ¶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

---

[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(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.

© 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). [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; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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
Office of the Deputy Commissioner
for Patent Examination Policy

Counsel of Record:
TOWNSEND AND
TOWNSEND AND CREW LLP
ATTN: WILLIAM B KEZER
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA
AIRMAIL

COPY MAILED

JAN 16 2003

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook et al :
Application No. 09/693,226 : ON PETITION
Filed: October 20, 2000 :
Attorney Docket No. ART84US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 13, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 14, 2001.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), while receipt is acknowledged of the executed declaration filed December 19, 2002, the declaration is not acceptable. As executed, it is unclear whether the inventors are attesting to being a joint inventor along with the other inventor. The first page of the declaration states that "I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter..." Since the declaration submitted does not suggest that there are further pages to this declaration. Accordingly, a declaration under 37 CFR 1.63 is required.

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

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

OR

Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA
AIRMAIL

COPY MAILED

MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook et al	:	
Application No. 09/693,226	:	ON PETITION
Filed: October 20, 2000	:	
Attorney Docket No. ART84US	:	

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

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Royal W. Craig
Law Offices of Royal W. Craig
210 N. Charles St., Suite
1319
Baltimore, MD 21201

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John M. Haltmeyer	:	
Application No. 09/693,245	:	DECISION
Filed: October 20, 2000	:	ON PETITION
Title of Invention:	:	
PRINTER MANAGEMENT PROTOCOL	:	

This is a decision in response to the Petition Under 37 CFR § 1.137(b), filed September 1, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 17, 2005. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having een received, this application became abandoned on August 18, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a response to the May 3, 2004 Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2624 for processing of the Amendment and Response, filed September 1, 2005, in due course.

Applicant is advised that a terminal disclaimed is not required for a grantable petition under 37 CFR 1.137(b) in applications filed after June 8, 1995. A review of the application file reveals that Applicant has not provided authorization to credit fees to deposit account 03-3565. Accordingly, Applicant should

file a petition to withdraw the terminal disclaimer and request a refund of the terminal disclaimer fee.

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of
Skierczynski et al.
Application No. 09/693,333
Filed: October 20, 2000
Atty Docket No. G-073US03REG

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed August 30, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero days (0) days to seven hundred twenty-nine (729) 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 as seven hundred sixty **(760)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 3, 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 August 30, 2004, applicants timely[1] submitted an application for patent term adjustment (with authorization to charge the required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred twenty-nine (729) days.

---

[1] PALM records indicate that the Issue Fee was received in the Office on August 31, 2004.

Applicants assert entitlement to a patent term adjustment of 729 days on the basis that the office incorrectly determined 899 days for applicant delay in filing a reply to the Notice to File Missing Parts mailed January 8, 2001. Applicants point out that their response was mailed and received by the Patent Office on June 11, 2001. Applicants concede a ninety-five (95) day reduction in patent term adjustment for this delay; however, they dispute the imposition of an applicant delay of 899 days in responding to this notice. Finally applicants view the imposition of a PTO delay of 824 days to be proper. Applicants' points are well taken.

The reduction of 899 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed January 8, 2001, is of record in the application with a date of receipt by the Office of June 11, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of eight hundred ninety-nine (899) days. Applicants did fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application. The response was received on June 11, 2001, outside of the three-month period provided for § 1.704(b), but only by 64 days.

Applicants are reminded that § 1.704(b) provides that:

> The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Accordingly, the period of reduction under this section is 64 days, not 95 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 sixty (760) 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 seven hundred sixty **(760)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A Ferriter
per

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Reed, et al.	:	
Application No. 09/693,358	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. M-9051 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed June 23, 2003. Accordingly, this application became abandoned on September 24, 2003. A Notice of Abandonment was mailed on February 10, 2004.

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

The file is being forwarded to Technology Center 2600 for review of the response, submitted February 9, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

cc.
Koestner Bertani, LLP
18662 MacArthur Blvd., Suite 400
Irvine, CA 92612

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

GRAY, CARY, WARE & FREIDENRICH
100 CONGRESS AVE
SUITE 1440
AUSTIN, TX 78701-4042

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MAY 21 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Kleinpeter, et al.
Application No. 09/693,393
Filed: October 20, 2000
Attorney Docket No.: AUDIO1100-1
For: SYSTEM AND METHOD FOR ENABLING FILE TRANSFERS EXECUTED IN A NETWORK ENVIRONMENT BY A SOFTWARE PROGRAM

ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed March 14, 2001, requesting that the above-identified application be accorded a filing date of October 19, 2000 instead of October 20, 2000. Petitioner seeks a waiver of the requirements of 37 CFR 1.10 to prevent loss priority rights.

Petitioner maintains that the above-identified application was prepared for filing on October 19, 2000 by attorney Armando Pastrana; that Janice Pampell completed and signed the Certificate of Mailing by Express Mail contained in the application papers; that Janice Pampell sealed the Express Mail envelope containing the application papers; that the Express Mail envelope containing the application papers was then delivered to an independent copying and mail contractor, IKON; and that according to IKON, the Express Mail envelope was then picked up by Corporate, Financial and Industrial Delivery, a courier service, with instructions for immediate delivery to the USPS.

Petitioner states that the employee of the courier service assigned to deliver the Express Mail envelope containing the application papers forgot the package in his car and neglected to deliver the Express Mail envelope to the USPS until the next day, October 20, 2000.

A suspension of the rules is provided under 37 CFR 1.183 wherein it states that "in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

The filing date of an application for patent is defined in 35 U.S.C. 111(a) as "the date on which the specification and any required drawing are <u>received in the Patent and Trademark Office</u>" (emphasis supplied). However, 35 U.S.C. 21(a) provides that:

> [t]he Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the

> United States Postal Service but for postal service interruptions or emergencies designated by the Director.

Thus, under the provisions of 35 U.S.C. 21(a), an application may also be accorded the date on which it was deposited with the United States Postal Service as the application filing date.

In this case, the application was neither "received in the Patent and Trademark Office" nor "deposited with the United States Postal Service" on October 19, 2000. Further, the requirement in 37 CFR 1.10(a) that the paper or fee be "deposited with the USPS" is a requirement of the statute (35 U.S.C. 21(a)) and, thus, may not be waived or suspended under 37 CFR 1.183.

Assuming, arguendo, that the requirements of 37 CFR 1.10(a) could be waived or suspended, the circumstances surrounding petitioner's failure to deposit the application papers via Express Mail service on October 19, 2000 are not deemed extraordinary such that a waiver or a suspension of the requirements of 37 CFR 1.10 is warranted.

While it is acknowledged that if 37 CFR 1.10 is not waived, petitioner's application for patent will lose its right of priority under 35 USC 119, it is not enough to show that a great loss of rights will occur to justify suspension or waiver of the rules under 37 CFR 1.183 simply because the failure to comply with the requirements of 37 CFR 1.10 was an avoidable oversight that could have been prevented by the exercise of due care or diligence and hence not an extraordinary event within the meaning of 37 CFR 1.183. See, Nitto Chemical Industry Co., Ltd. V. Comer, 37 USPQ2d 1778 (1994).

Petitioner elected to deposit the Express Mail package not with the USPS but instead with third parties the conduct of which petitioner could in no way predict and guarantee. Notably, both the Certificate of Express Mailing and the Express Mail label itself are signed by Janice Pampell. Clearly Janice Pampell was not charged with delivering the Express Mail package containing the application papers to the USPS, and did not in fact undertake to deliver the package. As a result, Janice Pampell could not certify that the Express Mail package containing the application papers would be deposited with the USPS on the desired "date-in."

Depositing the application papers with not one but two services other than the USPS resulted in an oversight that could have been prevented by the exercise of ordinary care or diligence. Petitioner elected to depend on third parties to ensure that the Express Mail package was delivered to the USPS on October 19, 2000. Petitioner did not require third parties to return a date-stamped Express Mail receipt on the day of deposit as added assurance that the Express Mail package containing the application papers was timely received by the USPS on the desired "date-in." As a result of reliance upon third parties to deliver the Express Mail package containing the application papers, the applicant could not guarantee that the package would in fact be delivered on the desired "date-in."

Moreover, no extraordinary circumstance has been shown to have occurred to have precluded petitioner from depositing the correspondence directly with an employee of the USPS to ensure

receipt a legible copy of the Express Mail label with the desired "date-in" clearly marked. "Persons dealing *indirectly* with the employees of the USPS … do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked." 37 CFR 1.10(b) (emphasis added). Petitioner's failure to obtain an "Express Mail" receipt with the desired date-in is clearly an omission that could have been avoided with the exercise of due care.

Petitioner's failure to deposit the application papers on the desired "date-in" arose as a result of reliance on third parties. Such reliance is not an extraordinary occurrence warranting a suspension or waiver of the rules.

The petition is **DISMISSED**.

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

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

The application is being returned to Technology Center 2100 for examination in due course with the presently accorded filing date of October 20, 2000.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No: __

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JUL 17 2006

OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU
AUSTRALIA

In re Application of	:	
Silverbrook, et al.	:	
Application No. 09/693,415	:	DECISION
Filing Date: 20 October, 2000	:	
Attorney Docket No.: NPA011US	:	

This is a decision on the petition filed on 7 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 1 July, 2005, with reply due absent extension of time on or before Monday, 3 October, 2005;
- the instant application went abandoned after midnight 1 October, 2005;
- on 15 August and 16 September, 2005, Petitioner submitted amendments after final,

which are not of right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 21 September, 2005;

- on 13 October, 2005, Petitioner filed a request for continued examination and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, but failed to submit a request and fee for extension of time–a 6 January, 2006, submission of request/fee was untimely;
- the Office mailed a Notice of Abandonment on 17 March, 2006;
- on 7 June, 2006, Petitioner filed the instant petition (with fee), a reply in the form of the formerly filed request for continued examination and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

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

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

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

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

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 2600 for further processing in due course.

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

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

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

[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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 17 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Kerry Mok et al.
Application No. 09/693,437 : DECISION ON REQUEST
Filed: October 20, 2000 : FOR WITHDRAWAL OF
For: METHOD AND SYSTEM FOR : ATTORNEY
FACILITATING A TRUSTED ON-LINE TRANSACTION
BETWEEN BUSINESSES AND NETWORKED CONSUMERS

This is a decision on the request filed on June 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks 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.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 7/26/04

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

Beyer Weaver & Thomas
PO Box 778
Berkeley, CA 94704-0778

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FEB 02 2004
OFFICE OF PETITIONS

In re Application of	:	
Lawrence A. Crowl	:	
Application No. 09/693,517	:	ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. SUN1P381/P4502	:	

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 non-final Office action mailed June 6, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on September 7, 2003.

The application file is being 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
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____7/13/04_____

TO SPE OF : ART UNIT____2875____

SUBJECT : Request for Certificate of Correction on Patent No.: _____6712486_____

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 Fax # 703 746 4649

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

Please see COCIN dated 4-21-04 in the table of contents in IFW.

Diana T. Rose
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:

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE **Art Unit** 2875

09/693,548

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____7/12/04_____

TO SPE OF : ART UNIT____2827____

SUBJECT : Request for Certificate of Correction on Patent No.: _____6712486_____

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

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

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

Please see COCIN dated 4-21-04 in the table of contents in IFW.

Diana T. Rose
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:

_____

_____

_____

_____

_____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

FREDRIKSON & BYRON, P.A.
1100 INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3397

COPY MAILED

SEP 0 3 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kroll et al.
Application No. 09/693,551
Filed: October 20, 2000
Attorney Docket No. 43169.62.1

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

The petition is **GRANTED.**

The application became abandoned on June 23, 2002 for failure to respond to a May 22, 2002 advisory action letter which gave Applicants 1 month to submit a responsive reply to the August 2, 2001 non-final Office Action.[1]

The instant petition contains a "Response" in reply to the August 2, 2001 non-final Office Action, the $640 petition fee (small entity), and a statement that the entire delay in filing the reply from its due date until the filing of the instant petition was unintentional. The petition is thus granted.

In addition, the petition utilizes an address different from that in the Office record. While a courtesy copy of this decision is being mailed to that address, all future correspondence for this application will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being returned to Technology Center 3700 for examination of the Response submitted with the instant petition.

Telephone inquiries concerning this decision 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

cc: Fredrickson & Byron, P.A.
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402

---

[1] 6/22/02 is a Saturday. Under 37 CFR 1.7(a), submission of a proper reply on or before the next business day, 6/24/02, would have been considered timely. However, failure to do so on or before that date renders the application abandoned as of 6/23/02. See 37 CFR 1.135 & MPEP 711.04(a) (Aug. 2001): "[T]he date of abandonment is after midnight of the date on which the set shortened statutory period, including any [obtained] extensions under 37 CFR 1.136, expired."

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/08

Paper No.: —

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/693575 Patent No: 7054290 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Seema S. Rao — SPE
2416 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/9/04

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction for Appl. No.: 09693463 Patent No.: 6965930

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. 115

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
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2157
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041
AUSTRALIA

COPY MAILED
SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of Silverbrook	:	
Application No. 09/693,707	:	Decision on Petition
Filing Date: October 20, 2000	:	
Attorney Docket No. BGA04US	:	

This is a decision on the petition filed November 14, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed March 13, 2002. The Office action set a shortened statutory period for reply of three (3) months.

With the proper payment for a three-month extension of time, petitioner could have filed a timely reply as late as September 13, 2002.

A reply was not filed by September 13, 2002. Accordingly, the above-identified application became abandoned as of midnight on September 13, 2002.

A reply to the Office action and request for a three-month extension of time were filed on September 30, 2002.

A Notice of Abandonment was mailed on September 8, 2003.

Discussion:

Petitioner alleges the September reply was timely submitted. However, petitioner does not allege the reply was filed on or before September 13, 2002. Therefore, the reply was not timely.

Since the $460 payment for a three-month extension of time was submitted after the application became abandoned, the fee is refundable. The Office has scheduled a refund of the $460.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

The instant petition lists the application number as 09/693,277. Petitioner should ensure all future papers correctly list the application number as 09/693,707.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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 FEDEX: 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

Attached: Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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 as (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.

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United States Patent and Trademark Office
P.O. Box 1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041
AUSTRALIA

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DEC 1 8 2006
OFFICE OF PETITIONS

In re Application of Silverbrook :
Application No. 09/693,707 : Decision on Petition
Filing Date: October 20, 2000 :
Attorney Docket No. BGA04US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2006, to revive the above-identified application.

The petition is **granted.**

A non-final Office action was mailed March 13, 2002. The Office action set a shortened statutory period for reply of three (3) months. A reply was not timely filed and the application became abandoned June 14, 2002.

Although a reply to the Office action and request for a three-month extension of time were filed on September 30, 2002, the reply was not timely.

A Notice of Abandonment was mailed on September 8, 2003.

The instant petition requests revival of the application.

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

Technology Center Art Unit 2822 will be informed of the instant decision and the examiner will consider the reply filed September 30, 2002, and the statutory disclaimer filed September 25, 2006, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JUN 1 2 2001

Technology Center 2100

Paper No. 4

Rick B. Yeager
10805 Mellow Lane
Austin, Texas 78759

In re Application of: Robert Suggs	)	
Application No. 09/693,733	)	
Filed: October 21, 2000	)	**DECISION ON REQUEST FOR**
For: AUTOMOTIVE PICTURE AND	)	**WITHDRAWAL AS ATTORNEY**
DATA ACQUISITION CENTER AND	)	
METHOD	)	

This is a decision on the Request To Withdraw from Representation filed May 21, 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: Robert Suggs, Amerisale
4111 Medical Parkway
Suite 210
Austin, Texas 78756-3726

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPTRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801

MAILED

JAN 12 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of Nobutaka MIYAKE Application No. 09/694002 Filed: October 23, 2000 Attorney Docket No. 00862.022033	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 13, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/18/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/694,002 Patent No.: 7,231,059

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

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: Approved as not affecting claim scope, or introducing new matter.

/Brian P. Werner/ SPE, Art Unit 2624 — 2624

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. _____

OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of
Toshifumi Takaoka et al
Application No. 09/694,021
Filed: October 23, 2000
Attorney Docket No. 106967

ON PETITION

This is a decision on the petition, filed December 23, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 15, 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 2834 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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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MAY 1 3 2004

OFFICE OF PETITIONS

In re Application of
Toshifumi Takaoka et al
Application No. 09/694,021
Filed: October 23, 2000
Attorney Docket No. 106967

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed February 11, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

SUGHRUE, MION, ZINN
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W
Washington DC 20037-3213

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Patrick Humbert, Pierre Ripoche, Joel Landi, and Jacques Goudeau	:	
Application No. 09/694,057	:	DECISION GRANTING
Filed: August 7, 2000	:	PETITION
Title: APPARATUS FOR SUPPORTING A PREFORM, AN INSTALLATION FOR MANUFACURING OR BUILDING UP A PREFORM AND PROVIDED WITH SUCH APPARATUS, METHODS IMPLEMENTED IN SUCH AN INSTALLATION, AND A PREFORM MADE USING SUCH METHODS	:	

This is a decision on the "Response to Notice of Incomplete Nonprovisional Application and Petition to Receive Filing Date of August 7, 2000," filed February 14, 2001, which is properly treated as a petition under 37 CFR §1.53(b), requesting that pages one through fourteen (1-14) of the specification be accorded a filing date of August 7, 2000, as part of the original disclosure.

The Office regrets the delay in issuing this decision.

On August 7, 2000, the above-identified application was filed. On January 9, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had not been accorded a filing date, as the applicant appeared to have omitted the specification.

On January 28, 2002, petitioner filed a copy of the fourteen (14) page specification, a one (1) page abstract, and a two (2) page declaration. On April 30, 2002, petitioner filed three (3) pages of drawings and a copy of the assignment.

The petition is further accompanied by a postcard receipt, acknowledging receipt of a fourteen (14) page specification, a one (1) page abstract, and 3 sheets of drawings in the United States Patent and Trademark Office (Office) on August 7, 2000. Applicants request that these papers be accorded a filing date of August 7, 2000.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is convincing that these application papers were deposited on August 7, 2000, and were subsequently misplaced in the Office.

Therefore, the application, including the specification, the declaration, the abstract, and the drawings, was complete on filing and entitled to a filing date of August 7, 2000 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The Notice mailed January 9, 2001 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 7, 2000 as part of the original disclosure, using the specification, abstract, and declaration submitted on January 28, 2002, as well as the drawings and the assignment both filed on April 30, 2002.

Any inquiries related to this decision should be directed to Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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JUN 15 2004

Paper No. 20

In re Application of
John F. Acres
Application No. 09/694,065
Filed: October 19, 2000
Attorney Docket No. 4164-158

DECISION ON PETITION

This is a decision on the petition filed on May 17, 2004, by which petitioner seeks supervisory review of the examiner's action in dismissing petitioner's appeal for repeatedly failing to file an appeal brief in compliance with 37 CFR 1.192(c), and thereafter holding that this application stands abandoned as a result of the dismissal of the appeal and the absence of any allowed claims in the application. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is denied.

The record shows that following the promulgation of a final rejection on June 27, 2003, petitioner filed a Notice of Appeal and then, on February 3, 2003, petitioner filed an appeal brief. On May 19, 2003, the examiner advised petitioner that the appeal brief was defective because it filed to comply with 37 CFR 1.192(c)(7). That subsection of the regulation governs the treatment of a ground of rejection applied to more than one claim, and requires that if such a ground of rejection exists, an appellant state whether the some or all of the claims rejected on that ground "stand or fall together", and also that if it is stated that some or all of the claims so rejected do not "stand or fall together", that an appellant supply argument(s) in support of that statement.[1] The record also shows that in this action, the examiner provided petitioner with specific examples explaining the examiner's position.[2]

In response, petitioner filed a substitute appeal brief on June 19, 2003. The examiner then promulgated a new final rejection, and petitioner then requested that the appeal be reinstated and filed a new appeal brief.[3] The examiner held the newly filed appeal brief to be defective, again for failure to comply with 37 CFR 1.192(c)(7), citing 37 CFR 1.192(d) as a basis for so doing and noting that this subsection of the regulation does not give the examiner any discretion.[4] It is apparent that the examiner took the view that the Notification of Non-Compliance with 37 CFR 1.192(c) originally mailed on May 19, 2003 triggered the application of 37 CFR 1.192(d) when the appeal brief subsequently filed on December 3, 2003 failed to comply with 37 CFR 1.192(c)(7).

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[1] 37 CFR 1.192(c)(7) states: "For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable."

[2] See paper No. 13, items 6(a), 6(b) and 9.

[3] See 37 CFR 1.193, and paper Nos. 15 and 16 in the record.

[4] 37 CFR 1.192(d) states: "If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed."

On pages 3-9 of the petition, petitioner has set forth various arguments supporting petitioner's requested relief. None of these arguments are persuasive. Particularly telling is the argument presented beginning with the last paragraph appearing on page 5 of the petition. In that argument, petitioner states that:

> "[A]ppellant is unaware of any requirement in the Code of Federal Regulations or the MPEP that provides that the Examiner's categories of rejections must be set forth verbatim as the grouping of claims or that the Examiner's categories of rejections cannot be subdivided to form groups. That the Appellant is required to group the claims in the brief implies that the Appellant has some control over how the claims are grouped, at least to the extent the groups are comprised of two or more claims for each ground of rejection appellant contests."

This argument implies that petitioner simply does not comprehend the requirements of 37 CFR 1.192(c)(7), notwithstanding that the examiner clearly explained these requirements in paper No. 13, dated May 19, 2003, that the regulation seems to be quite explicit, and that MPEP § 1206 provides a detailed and cogent explanation of the requirements of this subsection of the regulation. 37 CFR 1.192(c)(7) quite clearly and specifically defines a plurality of claims that have been rejected on a given ground of rejection as being a "grouping of claims." There is **no** discretion available to an appellant with respect to determining the "grouping(s) of claims"; if the examiner rejects claims A, B, D and X as being anticipated by the patent to Jones under 35 USC 102, then anticipation by the patent to Jones **is** a ground of rejection, and claims A, B, D and X **are** the members of the "grouping of claims" rejected on that ground. The sole discretion that an appellant has is to state for the record which of the claims, if any, within that "grouping of claims" is deemed to be separately patentable from any of the other claims in that "grouping of claims." If appellant does state that one or more claims within that "grouping of claims" is separately patentable apart from the other claims in that "grouping of claims", then appellant is **required**[5] to provide argument(s) explaining why that the one or more claims is separately patentable from the other claim(s) in that "grouping of claims."

None of the other arguments presented by petitioner are persuasive that the examiner's action in this application is either arbitrary or capricious, or amounts to an abuse of discretion. For example, the argument in the first sentence on page 6 of the petition that " ... the Examiner has not identified the different categories of rejection as constituting groups" ignores the fact that it is the regulation itself that so defines matters. Even if some of the arguments advanced by petitioner might be deemed to be persuasive as to a single claim or a single claim grouping, it is clear that taken as a whole, the appeal brief filed on December 3, 2003 did not comply with 37 CFR 1.192(c)(7). As the record shows that the appeal brief filed on February 3, 2003 also had failed to comply with 37 CFR 1.192(c)(7), and that petitioner was seasonably so notified, it appears that the examiner's action was proper pursuant to 37 CFR 1.192(d). Therefore, there is no basis for granting any of the relief requested.

Petitioner is entitled to request reconsideration of this decision, provided that the request for reconsideration is filed within two months of the date of this decision. The failure to establish a basis for relief pursuant to 37 CFR 1.181 would imply that petitioner's remedy would lie with 37 CFR 1.137.

PETITION DENIED.

E. Rollins-Cross, Director
Technology Center 3700

Alan T. McCollom
Marger, Johnson & McCollom, P.C.
1030 S.W. Morrison Street
Portland, OR 97205

[5] Again, there is no discretion here.

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Paper No. 23

ALAN T. McCOLLOM
MARGER JOHNSON & MCCOLLOM PC
1030 S W MORRISON STREET
PORTLAND OR 97205

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OFFICE OF PETITIONS

In re Application of	:	
John F. Acres	:	
Application No. 09/694,065	:	DECISION GRANTING PETITION
Filed: October 19, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4164-158	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper Appeal Brief as provided by the Office action mailed September 24, 2003, which set a 3 month extendible period for reply. A proper Appeal Brief not having been filed, the date of abandonment of this application is December 25, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a "Supplemental Appeal Brief under 37 CFR §1.192 and § 1.193(b)(2)(ii); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

The filing of a petition to revive may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If the applicant does not correct

the omission within the time period set in the letter (including any extension), the application will again be regarded as abandoned.

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

The application file is being forwarded to Technology Center AU 3714 for appropriate action as the nature of the case may require.

Frances Hicks

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

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VAN PELT, YI & JAMES LLP AND EMC CORPORATION
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

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In re Application of	:	
Bobbitt et al.	:	
Application No. 09/694,071	:	DECISION ON PETITION
Filed: October 19, 2000	:	
Attorney Docket No. LEGAP060	:	

This is a decision in response to a communication filed November 10, 2008, requesting consideration of a petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2006. The petition filed February 7, 2006 is not of record in the official file; however, the evidence is convincing the petition was filed on February 7, 2006, and subsequently lost in the Office. Accordingly, a decision on the petition follows.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 29, 2005, as required by the Notice of Allowance and Fee(s) Due mailed June 29, 2005. Accordingly, the application became abandoned on September 30, 2005. A Notice of Abandonment was mailed November 16, 2005. On February 7, 2006, 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 payment of the issue fee of $1,400; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

It is noted that applicant is no longer claiming status as a small entity. Therefore, status as a small entity has been removed.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/14/10

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No 09/694,074: 7282240

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

[signature]
SPE

1792
Art Unit

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Paper No.

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

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OFFICE OF PETITIONS

In re Patent No. 6,939,604	:	
Guyot-Sionnest et al.	:	
Issue Date: September 6, 2005	:	LETTER REGARDING
Application No. 09/694,090	:	PATENT TERM ADJUSTMENT
Filed: October 19, 2000	:	
Atty Docket No. 7814/43	:	

This letter is in response to the papers entitled "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," the first filed March 31, 2005, and the second filed November 4, 2005. In accordance with their duty of candor and good faith to the U.S. Patent and Trademark Office, patentees advised the Office at the time of the mailing of the notice of allowance and on issuance of the patent that the indicated patent term adjustment may have extended the patent by too many days.

Both requests for reconsideration of the patent term adjustment (at the time of mailing of the notice of allowance and on the face of the patent) are **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 **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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 **zero (0)** days.

On February 2, 2005, the Office mailed the initial 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 5 days. Prior to a decision being rendered in response to applicants' letter filed March 31, 2005, on September 6, 2005, the application matured into U.S. Patent No. 6,939,604, with a revised patent term adjustment of 16 days.

A review of the record confirms that the initial and revised determinations of Patent Term Adjustment were greater than patentees were entitled to. The initial determination of patent term adjustment of 5 days should have been reduced, pursuant to § 1.704(b), by an additional 217 days. Applicants took in excess of three months to file a response to both the Notice to File Missing Parts of Application mailed December 15, 2000 and the final rejection mailed July 25, 2003. Applicants did not file a complete and proper response to the Notice to File Missing Parts until July 17, 2001, three months and 124 days later. Likewise, applicants did not file a request for continued examination (RCE) in response to the final rejection until January 26, 2004, three months and 93 days later. Given these additional reductions, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days.

Furthermore, after the mailing of the notice of allowance, a period of adjustment of 11 days was entered for Office delay in issuing the patent. However, after the mailing of the notice of allowance, applicants filed drawings on July 5, 2005. Pursuant to § 1.704(c)(10), a period of reduction of 64 days should have also been entered (for the period beginning on July 5, 2005 to September 6, 2005, the date of issuance of the patent). Considering the further adjustment, in light of the further reduction, the patent should have issued with a revised patent term adjustment of zero (0) days.

In view thereof, the notice of allowance should have included a determination of patent term adjustment of zero (0) days. In addition, the patent should have issued with a revised patent term adjustment of zero (0) days.

As these letters were submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b) or 1.705(d). The Office thanks patentees for their good faith and candor in bringing these matters 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. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PAIR Screen
Copy of DRAFT Certificate of Correction

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

STEFAN J. KIRCHANSKI
CROSBY HEAFEY ROACH & MAY
1901 AVENUE OF THE STARS
SUITE 700
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Edward Shanbrom	:	
Application No. 09/694,178	:	ON PETITION
Filed: October 23, 2000	:	
Attorney Docket No. 25864.05500	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 26, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 27, 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 1616 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and amendment.

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

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WESTMAN CHAMPLIN & KELLY, P.A.
900 SECOND AVENUE SOUTH SUITE 1400
MINNEAPOLIS, MN 55402-3319

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APR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
KUEHN, et al.	:	
Application No. 09/694,293	:	DECISION GRANTING PETITION
Filed: October 23, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S16.12-0101**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 18, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

Correspondence Address for 09/694293

Customer Number	Contact Information	Address
27367 Delivery Mode: PAPER	Telephone: (612)334-3222 Fax: (612)334-3312 E-Mail: No E-Mail Address	WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS MN 55402-3319

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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Attorney/Agent Information for 09/694293

Customer # 27367

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
DARDI, PETER	39650 (Attorney)	(612)746-3005

Appln Info | Contents | Petition Info | **Atty/Agent Info** | Continuity/Reexam | Foreign Data | Invento

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Attorney/Agent Information for 09/694293

Customer # 27367

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
DARDI, PETER	39650 (Attorney)	(612)746-3005

Appln Info | Contents | Petition Info | **Atty/Agent Info** | Continuity/Reexam | Foreign Data | Invento

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RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09694293 Total Records Found: 20

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/17/2008	00003372	4	1464	$130.00	04/16/2008	CC
04/17/2008	00003373	4	1801	$810.00	04/16/2008	CC
12/19/2007	00004198	4	1501	$1,440.00	12/18/2007	CC
01/25/2007	00000026	1	1801	$790.00	01/24/2007	CC
01/25/2007	00000027	1	1252	$450.00	01/24/2007	CC
01/09/2006	00000031	1	1801	$790.00	01/06/2006	CC
01/09/2006	00000032	1	1253	$900.00	01/06/2006	CC
11/08/2005	00000009	1	1251	$120.00	11/07/2005	CC
04/07/2005	00000031	1	1252	$450.00	04/07/2005	CK
05/20/2004	00000123	1	1801	$770.00	05/18/2004	CK
04/01/2004	00000005	1	1251	$110.00	03/18/2004	DA 501038
04/01/2004	00000006	1	1401	$330.00	03/18/2004	DA 501038
05/21/2003	00000103	1	1806	$180.00	05/19/2003	CK
10/11/2002	00000001	1	8021	$40.00	10/09/2002	CK
10/11/2002	00000002	1	8021	$40.00	10/09/2002	CK
09/12/2002	00000108	1	126	$180.00	09/11/2002	CK
10/26/2000	00000111	1	101	$710.00	10/23/2000	CK
10/26/2000	00000112	1	103	$234.00	10/23/2000	CK
10/26/2000	00000113	1	102	$22.00	10/23/2000	DA 231123
10/26/2000	00000114	1	102	$58.00	10/23/2000	CK

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 13 2003

STANDLEY & GILCREST LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

#10

In re Application of	:
John J. Wille, Jr.	:
Serial No.: 09/694,393	: PETITION DECISION
Filed: October 23, 2000	:
Attorney Docket No.: 1194-011D	:

This letter is in regard to the petition (under 37 CFR 1.181) filed January 29, 2003, to withdraw the Notice of Abandonment. Applicant should note that the Serial Number on the petition is incorrect and delayed correlating the petition with the application file.

BACKGROUND

A review of the file history shows that this application was filed on October 23, 2000, and consisted of (according to the transmittal letter) 36 pages of specification and claims, 11 sheets of drawing, a 3 page declaration and a small entity filing fee and a return postcard. The drawings consisted of photomicrographs mounted on a Bristol Board backing. Upon receipt and processing of the application a Notice of Omitted Items was mailed to applicant on January 2, 2001. The missing item was identified as Figure 4A. On February 15, 2001, applicant replied by supplying a copy of Figure 4A and a petition to accept the omitted figure as having been part of the original filing, as evidenced by the Office date stamped return postcard which does not indicate that any figures are missing from the originally filed application papers. No formal decision on the petition appears in the record, however it appears that the petition was accepted and Figure 4A, as supplied with the petition, entered.

The examiner allowed the application on first action appending to the Notice of Allowability a requirement that missing Figure 1A be supplied. The Notice of Allowance and Issue Fee Due and the Notice of Allowability, both mailed to applicant on September 28, 2001, set a three month statutory period for paying the Issue Fee and supplying the additional drawing. The Issue Fee was timely paid on January 24, 2002. It appears that no reply to the requirements of the Notice of Allowability was made. A Notice of Abandonment was mailed to applicant on May 14, 2002, indicating that new formal drawings had not been received. Applicant then filed this petition on January 29, 2003.

DISCUSSION

All of the difficulties with this application revolve around the drawings. M.P.E.P. 608.02 sets forth drawing standards for photographic submissions, as follows:

> (b) Photographs . —
> (1) Black and white . Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (e.g., immunological, western, Southern, and northern), auto-radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.
> *****
> Photographs or photomicrographs (not photolithographs or other reproductions of photographs made by using screens) printed on sensitized paper are acceptable as final drawings, in lieu of India ink drawings, to illustrate inventions which are incapable of being accurately or adequately depicted by India ink drawings, e.g., electrophoresis gels, blots, (e.g., immunological, western, Southern, and northern), autoradiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, metallurgical microstructures, textile fabrics, grain structures and ornamental effects. The photographs or photomicrographs must show the invention more clearly than they can be done by India ink drawings and otherwise comply with the rules concerning such drawings.
> Photographs submitted in lieu of ink drawings must comply with 37 CFR 1.84(b). There is no requirement for a petition or petition fee, and only one set of photographs is required. See 1213 O.G. 108 (Aug. 4, 1998) and 1211 O.G. 34 (June 9, 1998) and 37 CFR 1.84(b)(1).
> Such photographs to be acceptable must be made on photographic paper having the following characteristics which are generally recognized in the photographic trade: double weight paper with a surface described as smooth with a white tint. **Note that photographs filed on or after October 1, 2001 may no longer be mounted on Bristol Board.** See 37 CFR 1.84(e) and 1246 O.G. 106 (May 22, 2001). If several photographs are used to make one sheet of drawings, the photographs must be contained (i.e., developed) on a single sheet.

Applicant supplied Bristol Board mounted photographs with the original application papers. However, it appears that the photographs were not securely mounted to the Bristol Board, as required. This is evidenced by the discovery in initial processing of a blank sheet of Bristol Board containing the legend "Fig 4A" but no photograph. One loose photograph was found with the papers. However, the Office cannot assume that the loose photograph is the one which should have been mounted on the blank sheet of Bristol Board. For this reason the Notice of Omitted Items was mailed to applicant. In response, a new Bristol Board mounted photograph was submitted.

During examination the examiner noted that Figures 1B-1D were present, but not Figure 1A. The specification does not mention a Figure 1A. Thus the omission of Figure 1A appears not to have been an oversight and the examiner's requirement that it be supplied in response to the Notice of Allowability was improper. However, applicant in any future applications should number and letter drawings beginning with number "1" and letter "A" so as to avoid confusion or questions as to whether a drawing figure is missing or not. During examination several other photographs have become detached from their Bristol Board mounting. Clearly the originally supplied photographs were not properly mounted on Bristol Board in a secure manner. As an application's specification and drawings are disassembled and individually processed during the printing process, the existence of loose photographs would inevitably lead to errors in printing, such as missing figures or incorrectly numbered figures. The examiner's requirement for new drawings is therefor maintained. Note also the bold portion of the section quoted above.

It is further noted that this petition was filed more than eight months after the Notice of Abandonment was mailed to applicant. 37 CFR 1.181(f) requires that petitions be filed within **two months** of the action complained of, in this case abandonment of the application. Failure to do so may be cause for dismissal of the petition. The time period is indicated as non-extendable. Applicant's petition indicates that the application has been discussed several times with the examiner. In consulting with the examiner, the examiner of record in this application fails to remember any discussions with applicant about this application. It may be that applicant spoke with other Office personnel, which remain unidentified, but applicant did not speak with the examiner of record. Nor does the petition indicate what the subject of any such discussions was. Other than the referred to discussions, no reasonable reason is given for the delay in filing this petition.

DECISION

Applicant's petition is **DISMISSED.** Applicant may submit a renewed petition requesting reconsideration of this decision upon satisfaction of the following conditions:

1. New drawings in compliance with the guidelines set forth above for photographic drawings must be submitted within TWO MONTHS of the mail date of this decision. No extension of this time period will be permitted.

2. A satisfactory explanation of the reason for delay in filing the original petition must be submitted.

3. A satisfactory reason for not filing a reply to the Notice of Allowability requirement for new drawings is also required. As noted in the Notice of Abandonment this application was held abandoned for failure to file new drawings, as required in the Notice of Allowability. This likely refers to the requirement to submit a Figure 4A, but may also be extended to apply to the poorly mounted photographs. In view of this requirement, applicant may wish to consider the filing of a petition under 37 CFR 1.137(a) or (b).

Any renewed petition must be submitted within TWO MONTHS of the mailing date of this petition decision in order to be considered timely. No extension of this time period will be permitted.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 12 2004

STANDLEY AND GILCHRIST
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

12

In re Application of :
John J. Wille, Jr. :
Serial No.: 09/694,393 : PETITION DECISION
Filed: October 23, 2000 :
Attorney Docket No.: 1194-011D :

This is in response to the renewed petition under 37 CFR 1.181, filed May 15, 2003, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

A review of the file history is set forth in the previous petition decision and is not repeated herein. The previous decision set forth three requirements for applicant to meet in order to have the holding of abandonment withdrawn. These were (see page 3 of previous decision): (1) file new drawings in compliance with 37 CFR 1.84(b); (2) satisfactorily explain the delay in filing of the original petition; and (3) provide a satisfactory explanation as to why the Notice of Allowability requiring new drawings was not complied with.

With respect to requirement (1), applicant has supplied Bristol board mounted photographs (microphotographs) despite being noticed that such were no longer acceptable by reference to the highlighted portion of the rule quoted in the decision. **"Note that photographs filed on or after October 1, 2001, may no longer be mounted on Bristol Board."** October 1, 2001, does not refer to the filing date of the application, but the actual date of submission of new or corrected photographs. Further, only Figures 1B, 1C, 1D, 2A, 2B, 2C, 2D, and 3A were submitted. Figures 3B, 4A and 4B were not submitted.

With respect to item (2) above, a general explanation has been given, but lacks sufficient detail or evidence accompanying the statements to satisfy the requirement.

With respect to item (3) above, it is accepted that the examiner's notation on the Notice of Allowability and comments referring to Figure 1A can be interpreted to refer only to the missing figure (which was not present or referred to in the specification, and thus not required).

In view of the failure to comply with requirement (1) and to meet the explanation requirements of item (2) above, the petition is **DENIED**. Applicants may still file a petition under 37 CFR 1.137(b) within TWO MONTHS of the mail date of this decision. The request to consider this petition alternatively as a petition under 37 CFR 1.137(b) cannot be accorded. The petition must be a separate paper.

The application will be forwarded to the warehouse for storage.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk John Doll (for)
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of :
John J. Willie Jr. :
Application No. 09/694,393 : ON PETITION
Filed: October 23, 2000 :
Attorney Docket No. HYG 1194-011D :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The corrected formal drawing as required by the Notice of Allowability mailed September 28, 2001, were received, however, Figure 1A was not submitted with the instant petition. This application cannot be revived until Figure (s) 1A has been received.

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:

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

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

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

Retta Williams

Retta Williams
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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
John J. Willie Jr.	:	
Application No. 09/694,393	:	ON PETITION
Filed: October 23, 2000	:	
Attorney Docket No. HYG 1194-011D	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

This application matter 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

SPE M. Witystyn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/30/04

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/694393 Patent No.: 7037221

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

SPE

1651
Art Unit

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WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

Steve M. Perry
THORPE, NORTH & WESTERN, LLP
P.O. Box 1219
Sandy UT 84091-1219

MAIL

JAN 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application :
GARDINER, DEE, ET AL :
Application No: 09/694,411 :
Filed: December 23, 2000 :
Title: **METHOD FOR REDUCING TRANSPORT** :
DELAY IN AN IMAGE GENERATOR :

Withdrawal From Issue

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue, to permit reopening of prosecution; due to unpatentability of one or more claims.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Reinhard Eisenzopf

for Joseph J. Rolla, Jr.
Director, Technology Center 2600
Communications

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.
09/694,416	10/20/00	Thomas Collins	20206-014 (PT

PATENT NUMBER	DATE OF THIS NOTICE	PAPER NUMBER
5,848,159	03/14/01	13

NOTICE OF MERGED REEXAM - REISSUE PROCEEDING

This reissue application has been merged with the reexamination proceeding listed below:

90/ 005,733 Filing Date: 05/18/00
Control No. 90/ 005,776 Filing Date: 07/28/00

Requester (name, address) Patent Administrator
Testa, Hurwitz & Thibeault, LLP
125 High Street
Boston, MA 02110

The front face of the reissue patent will include the following paragraph:

REEXAMINATION RESULTS

The questions raised in reexamination request No. 90/ 005733**, filed 05/18/00**, have been considered and the results thereof are reflected in this reissue patent which constitutes the reexamination certificate required by 35 U.S.C. 307 as provided in 37 CFR 1.570(e).

**AND REEXAMINATION REQUEST NO. 90/005,776, FILED ON 07/28/00

FORM PTO-1527
(3-84)

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Paper No. 25

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

JUN 06 2003

Bill Streeter Hewlett-Packard Company Intellectual Property Adminstration P.O. Box 272400 Fort Collins, CO 80527-2400	FOR PATENT OWNER
Patent Administrator TESTA, HURWITZ & THIBEAULT, LLP 125 High Street Boston, MA 02110	FOR THIRD PARTY REQUESTER
In re Collins et al. Reexamination Proceeding Control No. 90/005,733 Filed: May 18, 2000 For: U.S. Patent No. 5,848,159	
In re Collins et al. Reexamination Proceeding Control No. 90/005,776 Filed: July 28, 2000 For: U.S. Patent No. 5,848,159	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
In re reissue application of Collins et al. Serial No. 09/694,416 Filed: October 20, 2000 For: U.S. Patent No. 5,848,158	

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 above-listed address until otherwise notified by the patent owner. This correspondence address is provided by the withdrawn attorney(s). The patent owner 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.

All papers mailed by the Office will take the form of a single action which applies to the reissue application and the reexamination proceedings. All papers issued by the Office or filed by the patent owner will contain the identifying data for all three cases and will be physically entered in all three files. All papers filed by the patent owner must consist of a single response, filed in triplicate, each bearing an original signature, for entry into each file. All papers filed by the patent owner must be served on the requester and requester will be sent copies of all papers mailed by the Office.

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

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Paper No. 25

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

JUN 06 2003

Bill Streeter Hewlett-Packard Company Intellectual Property Adminstration P.O. Box 272400 Fort Collins, CO 80527-2400	FOR PATENT OWNER
Patent Administrator TESTA, HURWITZ & THIBEAULT, LLP 125 High Street Boston, MA 02110	FOR THIRD PARTY REQUESTER
In re Collins et al. Reexamination Proceeding Control No. 90/005,733 Filed: May 18, 2000 For: U.S. Patent No. 5,848,159	
In re Collins et al. Reexamination Proceeding Control No. 90/005,776 Filed: July 28, 2000 For: U.S. Patent No. 5,848,159	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
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All papers mailed by the Office will take the form of a single action which applies to the reissue application and the reexamination proceedings. All papers issued by the Office or filed by the patent owner will contain the identifying data for all three cases and will be physically entered in all three files. All papers filed by the patent owner must consist of a single response, filed in triplicate, each bearing an original signature, for entry into each file. All papers filed by the patent owner must be served on the requester and requester will be sent copies of all papers mailed by the Office.

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

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DALLAS TX 75380

In re Application of	:
Ussery, et al.	: LETTER REGARDING PTA
Application No. 09/694,425	:
Filed: October 23, 2000	:
Atty. Dkt. No.: OFFW01-00008	:

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 23, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed January 23, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 813 days. Applicants indicate that this adjustment appears to be excessive in that the application was incorrectly awarded an adjustment of 90 days in connection with the Board decision mailed February 10, 2006 and 33 days in connection with mailing of the non-final Office action July 13, 2006.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 690 days.

The application was properly accorded an adjustment of 543 days in accordance with 37 CFR 1.702(a)(1).

As acknowledged by applicants, the application is not subject to adjustment in connection with the mailing of the Board decision on February 10, 2006 or the mailing of the non-final Office action on July 13, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 690 days (adjustments totalling 737 days less reductions totalling 47 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 16:36:37

PTA Calculations for Application: 09/694425			
Application Filing Date:	10/23/2000	PTO Delay (PTO):	860
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	47
Post-Issue Petitions:	0	Total PTA (days):	690
PTO Delay Adjustment:	-123		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		33	
101	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
87	01/23/2008	MAIL NOTICE OF ALLOWANCE			
86	01/23/2008	MAIL EXAMINER'S AMENDMENT			
85	01/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	01/14/2008	ISSUE REVISION COMPLETED			
83	01/14/2008	DOCUMENT VERIFICATION			
82	12/26/2007	EXAMINER'S AMENDMENT COMMUNICATION			
81	12/19/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
80	12/26/2007	NOTICE OF ALLOWABILITY			
77	10/18/2007	DATE FORWARDED TO EXAMINER			
76	10/03/2007	RESPONSE AFTER NON-FINAL ACTION		5	75
75	06/28/2007	MAIL NON-FINAL REJECTION			
74	06/20/2007	NON-FINAL REJECTION			
71	04/13/2007	DATE FORWARDED TO EXAMINER			
70	04/09/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
69	04/13/2007	DATE FORWARDED TO EXAMINER			
68	04/09/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		4	61
67	04/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
66	04/09/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
65	03/19/2007	MAIL ADVISORY ACTION (PTOL - 303)			
64	03/17/2007	ADVISORY ACTION (PTOL-303)			

63	03/09/2007	DATE FORWARDED TO EXAMINER			
62	03/05/2007	AMENDMENT AFTER FINAL REJECTION			
61	01/05/2007	MAIL FINAL REJECTION (PTOL - 326)			
60	12/30/2006	FINAL REJECTION			
59	10/16/2006	NEW OR ADDITIONAL DRAWING FILED			
58	10/26/2006	DATE FORWARDED TO EXAMINER			
57	10/16/2006	RESPONSE AFTER NON-FINAL ACTION		3	56
56	07/13/2006	MAIL NON-FINAL REJECTION	33		47
55	07/07/2006	NON-FINAL REJECTION			
54	06/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
53	04/21/2006	DATE FORWARDED TO EXAMINER			
52	04/17/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	04/21/2006	DATE FORWARDED TO EXAMINER			
50	04/17/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
49	04/21/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	04/17/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	02/10/2006	MAIL BPAI DECISION ON APPEAL - AFFIRMED	90		37
46	02/10/2006	BPAI DECISION - EXAMINER AFFIRMED			
45	10/12/2005	DOCKETING NOTICE MAILED TO APPELLANT			
44	10/12/2005	ASSIGNMENT OF APPEAL NUMBER			
43	09/27/2005	APPEAL AWAITING BPAI DOCKETING			
42	09/21/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
41	09/21/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
40	09/16/2005	REPLY BRIEF NOTED BY EXAMINER			
39	09/16/2005	REPLY BRIEF NOTED BY EXAMINER			
38	07/15/2005	DATE FORWARDED TO EXAMINER			
37	07/12/2005	REPLY BRIEF FILED			
36	05/03/2005	MAIL EXAMINER'S ANSWER	194		25
35	05/02/2005	EXAMINER'S ANSWER TO APPEAL BRIEF			
34	04/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
33	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	03/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	03/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
29	01/11/2005	CASE DOCKETED TO EXAMINER IN GAU			

27	07/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26	07/02/2004	DATE FORWARDED TO EXAMINER			
25	06/21/2004	APPEAL BRIEF FILED			
24	06/21/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/21/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	06/19/2003	REFERENCE CAPTURE ON IDS			
21	10/23/2000	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
20	04/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	03/18/2004	NOTICE OF APPEAL FILED			
18	01/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
17	01/12/2004	FINAL REJECTION			
16	11/04/2003	DATE FORWARDED TO EXAMINER			
15	10/24/2003	RESPONSE AFTER NON-FINAL ACTION		35	13
14	10/24/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	06/19/2003	MAIL NON-FINAL REJECTION	543		-1
12	06/16/2003	NON-FINAL REJECTION			
11	04/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	02/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	12/11/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	11/11/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	02/14/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	12/19/2000	APPLICATION DISPATCHED FROM OIPE			
3	12/11/2000	CORRESPONDENCE ADDRESS CHANGE			
2	11/13/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/23/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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APR 0 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Andrew Read et al	:	
Application No. 09/694,433	:	NOTICE
Filed: October 23, 2000	:	
Attorney Docket No. TRANS59	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2115.

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

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OFFICE OF PETITIONS

MOTOROLA, INC.
8000 WEST SUNRISE BOULEVARD
ROOM 1610
FORT LAUDERDALE, FL 33322

In re Application of
Kwok, et al.
Application No. 09/694,441
Filed: October 24, 2000
Attorney Docket No.: PT02977Y

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 17, 2003, to revive the above-identified application. This petition is being treated under 37 CFR 1.181 as a petition with withdraw the holding of abandonment.

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

This application was held abandoned February 21, 2003 for failure to timely reply to the non-final Office action mailed November 20, 2002. Notice of Abandonment was mailed October 2, 2002.

Petitioner states that a response to the Notice was timely submitted February 20, 2003 in accordance with the Certificate of Mailing procedures outlined at 37 CFR 1.8. Petitioner has included a copy of the response to the non-final Office action.

A review of the application file does not indicate receipt of the response purportedly submitted February 20, 2003, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of mailing thereon has been supplied, and (3) statements attesting to the previous timely mailing have been submitted.

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 2600 for further processing.

No fee is due in connection with this matter. The previously submitted petition fee of $110.00 has been refunded to Deposit Account No. 50-2117.

Telephone inquiries regarding the status of this application may be directed to Technology Center 2100 at (703)306-0377.

Telephone inquiries concerning the content of this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/24/2010

Applicant	: Fengduo Hu	: DECISION ON REQUEST FOR
Patent Number	: 6745162	: RECALCULATION of PATENT
Issue Date	: 06/01/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/694,474	: OF WYETH
Filed	: 10/23/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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Paper No. 13

GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
AL-SHEIKH, ZAHER
Application No. 09/694,530
Filed: October 23, 2000
For: **METHOD FOR VERIFYING THE IDENTITY OF A PASSENGER**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 22, 2004, requesting withdrawal of the holding of abandonment of the above-identified application.

The above-identified application became abandoned due the applicant's failure to timely respond to the final Office action mailed December 31, 2003. A Notice of Abandonment was mailed August 25, 2004.

Petitioner asserts that a proper response in the form of a Request for Continued Examination (RCE) was timely filed on May 21, 2004 with two months extension of time. In support of the petition, petitioner submits a copy of Express Mailing Label No. EV435303793US showing a "date in" of May 21, 2004 and a copy of a RCE with the same Express Mailing Label number thereon.

The filing of papers and fees by Express Mail is covered by 37 C.F.R. § 1.10. 37 C.F.R. 1.10(e) states:

> "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 paced on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) the petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(30 of this section that the requested filing date was the date the correspondence was deposited in the "Express mail Post Office to Address" service prior to the last scheduled pickup for that day; and

(4) the petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS."

The petition complies with the requirements set forth above.

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

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for processing the RCE and petition for two month's extension of time. From there, the file will be forwarded to the examiner for further action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80528-9599

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Kenneth W. Crangle et al :
Application No. 09/694,546 :
Filed: October 23, 2000 :
Attorney Docket No. 10002549-1 :

This is a decision on the petition, filed October 1, 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 20, 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 2173 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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FORT COLLINS CO 80528-9599

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kenneth W. Crangle et al	:	
Application No. 09/694,546	:	
Filed: October 23, 2000	:	
Attorney Docket No. 10002549-1	:	

This is a decision on the petition, filed March 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2173 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Kazufumi Ogawa et al.	:	
Application No. 09/694,575	:	
Patent No. RE39045	:	DECISION ON PETITION
Filed: October 24, 2000	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: March 28, 2006	:	
Attorney Docket No.: 356972000203	:	
Title: METHOD OF MANUFACTURING A FLUOROCARBON-BASED COATING FILM	:	

This is a decision on the petition filed on July 11, 2006, under 37 C.F.R. §1.378(c)[1], to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The present patent is a reissue of patent number 5,538,762, which issued on July 23, 1996.

The grace period for paying the 7-½ year maintenance fee provided in 37 C.F.R. §1.362(e) expired at midnight on July 23,

1 A grantable petition pursuant to 37 C.F.R §1.378(c) must be accompanied by:
(1) The maintenance fee as set forth in 37 C.F.R. §§1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

2004, with no payment received. Accordingly, the patent expired on July 23, 2004 at midnight.

The present petition under 37 C.F.R. §1.378(c) is **GRANTED**.

The petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

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

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Washington, D.C. 20231
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Paper No. 6

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FEB 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:)
Fandrianto et al.)
Application No.: 09/694,619)
Filed: October 21, 2000)
For: SYSTEM AND METHOD FOR PROVIDING CONFERENCING CAPABILITIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw As Attorneys filed January 17, 2002.

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

The request is **GRANTED**.

All attorneys associated with Customer Number 00758 filed July 13, 2001 have been withdrawn from the attorney of record.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communication

cc: Baker Botts
Bart Showalter
2001 Ross Avenue
Dallas, TX 75201-2980

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KEITH E. GEORGE, ESQ.
MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
John Overman, et al. :
Application No. 09/694,653 :
Filed: October 23, 2000 :
Attorney Docket No. 5384/55100 :

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 11, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 12, 2001.

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. 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 Change of Correspondence Address filed May 17, 2002 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

cc: PATULA & ASSOCIATES
14TH FLOOR
116 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60603

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Paper No.

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Patent No. 6,954,498	:	DECISION ON REQUEST
Alan J. Lipton	:	FOR RECONSIDERATION OF
Issue Date: October 11, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/694,712	:	and
Filed: October 24, 2000	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 37112-164994	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.705(d)," filed October 26, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from nine hundred thirty (930) days to one thousand twenty-two (1022) days.

The request for reconsideration of the 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 one thousand twenty-two **(1022)** days.

On October 11, 2005, the application matured into U.S. Patent No. 6,954,498, with a revised patent term adjustment of 930 days. On October 26, 2005, in response to the PTA indicated on the patent, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of PTA is 1022 days. Patentees dispute the reduction of 92 days associated with the filing of the Applicant's Statement of the Substance of the Interview on July 12, 2005. Patentees argue that this filing does not constitute a failure to engage in reasonable efforts to conclude prosecution and therefore should not result in any applicant delay.

Petitioner's argument is well-taken. The Clarification of 37 CFR § 1.704(c)(10) provides that only certain papers filed after a notice of allowance has been given or mailed will reduce the period of adjustment by the number of days beginning on the date

the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper. The circumstances of the filing of Applicant's Statement of the Substance of the Interview, filed on July 12, 2005, have been considered. It is concluded that under the circumstances, the filing does not constitute a failure of the applicant to engage in reasonable efforts to conclude prosecution as defined by § 1.704(c)(10). Thus, it is concluded that the reduction of 92 days is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been one thousand twenty-two (1022) days.

The Office will issue 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 to **ONE THOUSAND TWENTY-TWO (1022)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been paid. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,954,498 B1

DATED : October 11, 2005

INVENTOR(S) : Alan J. Lipton

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (930) days

Delete the phrase "by 930" and insert – by 1022 days--

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KAPLAN & GILMAN, L.L.P.
900 ROUTE 9 NORTH
WOODRIDGE NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
Vassar et al.	:	
Application No. 09/694,714	:	DECISION ON PETITION
Filed: 23 October, 2000	:	
Atty Docket No. 176/22	:	

This is a decision on the petition filed on 22 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 11 August, 2005, for failure to timely submit the issue fee as required by the Notice of

---

[1] Effective December 1, 1997, the provisions of 3 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)).

Allowance and Fee(s) Due mailed on 10 May, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Banner & Witcoff
1001 G Street N.W.,
Washington, DC 20001-4597

In re Application of	:
Farley et al.	:
Application No. 09/694,789	: DECISION GRANTING APPLICATION
Patent No.: 6,787,574	: FOR PATENT TERM ADJUSTMENT
Filed: October 20, 2000	:
Attorney Docket No. 005242.87031	:

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" timely filed on August 11, 2003 and renewed on September 27, 2004 requesting that the Office adjust the PAIR calculation to be 63 days at the time of the mailing of the notice of allowance and to be 332 days at the time of the issuance of the patent.

APPLICANTS' application for PTA is **granted to the extent herein indicated.** The Office will adjust the PAIR calculation to reflect a determination of 331 days at the time of the issuance of the patent. The Office will also *sua sponte* issue a certificate of correction reflecting the correct amount of PTA at the time of the issuance of the patent, three hundred and thirty-one (331) days.

Applicants disputing this decision have two months to file a response. No extensions of time are granted under 37 CFR 1.136.

Applicants assert that the Office was correct in determining the amount of Office delay pursuant to 37 CFR 1.702(a)(1), a sixty-three day Office delay. In addition, the applicant believes that the amount of Office delay for failing to issue the application within four months of the payment of the issue fee and all other requirements being satisfied pursuant to 37 CFR 1.702(a)(4) is two hundred and sixty-nine (269) days. Applicants dispute the reduction under 37 CFR 1.704(b) for an overdue response to the notice to file missing parts, a thirty-six (36) day delay. In addition, applicants dispute the 120 day delay under 37 CFR 1.704(c)(10).

Applicants' assessment of the PTA determination is correct to an extent herein indicated. Applicants' assertion as to the Office's requirement to issue the application within four months of the payment of the issue fee and other requirements being satisfied is inaccurate by one day. The correct amount of Office delay for failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied is 268 days as PAIR calculated.[1] Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application. Applicants' response to the Office's notice to file missing parts was filed on February 16, 2001, not April 16, 2001 as noted in PALM. Accordingly, applicants response was within three

[1]The delay began on December 14, 2003, the day after four month date of payment of issue fee and ended on September 7, 2004, day that the patent issued, an overall 268 day delay.

months of the mailing of the notice to file missing parts.[2] Therefore, the thirty-six days of delay assessed by the Office is in error. In addition, applicant did not submit any paper after the mail date of the notice of allowance that is considered a failure to engage pursuant to 37 CFR 1.704(c)(10). The Office assessed a one hundred and twenty day delay for a paper submitted on August 13, 2003. However, upon review, the "miscellaneous incoming letter" submitted on such date is actually the PTA petition. The submission of an application for Patent Term Adjustment pursuant to 37 CFR 1.705(b) is not considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). See 37 CFR 1.704(e). Accordingly, the one hundred and twenty day reduction is an error. Overall, the actual amount of PTA at the time of the issuance of the patent is 331 days.

After the mailing of this decision, the file will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office has assessed the $200.00 fee for the submission of the petition. No additional fees are required.

Any questions concerning this decision should be directed to KeryA. Fries, at 571-272-7757.

Kery Fries

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

cc: draft certificate of correction
Adjusted PAIR calculation

[2]The Office notes that applicants are given three months to reply to the notice without loss of PTA regardless of the shortened statutory period set by the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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EXPANSE NETWORKS, INC.
6206 KELLERS CHURCH ROAD
PIPERSVILLE PA 18947

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OFFICE OF PETITIONS

NOTICE

In re Application of :
Jeffrey S. Hamilton :
Application No. 09/694,848 :
Filed: October 20, 2000 :
Attorney Docket No. T712-10 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 5

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

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Benz
Application No. 09/695,028
Filed: October 24, 2000
Attorney Docket No. BUR9-2000-0047-US1
Title: METHOD FOR THIN FILM LASER REFLECTANCE CORRELATION FOR SUBSTRATE ETCH ENDPOINT

DECISION DISMISSING PETITION

This is a decision on the petition, filed on January 5, 2001, requesting that a Notice of Omitted Item(s) ("Notice"), mailed on December 15, 2000 for the above-identified application, be withdrawn.

The petition is **DISMISSED**.

The application was filed on October 24, 2000. However, on December 15, 2000, the Initial Patent Examination Division of the Office mailed the Notice stating that the application had been accorded a filing date of October 24, 2000, and advising Applicant that Figures 4C, 4D, 5C, 5D, 6C, and 6D described in the Specification appeared to have been omitted from the application as filed.

In response, the present petition was filed. The petition contends that these "omitted" figures, i.e., "Figures 4C, 4D, 5C, 5D, 6C and 6D," never existed, do not exist, and have not been described in the Specification filed in the Office on October 24, 2000. Petitioner does state, however, that the word "6D" on page 6, line 10 of the Specification is a typographical error and has been corrected in a preliminary amendment submitted with the present petition.

A review of the Specification filed on October 24, 2000 confirms that other than the wording of "Figures 4A-6D" at line 10 of page 6 of the Specification, "Figures 4C, 4D, 5C, 5D, 6C and 6D" have not been mentioned or described anywhere else in the Specification. Further, the drawings as contained in the Office file are depicted on 3 sheets: Figures 1A, 1B, 2A, 2B, 3A and 3B on the first sheet; Figures 4A, 4B, 5A, 5B, 6A and 6B on the second sheet; and Figures 7 and 8 on the third and last sheet. Therefore, it is now clear from the petition that, but for the typographical error as noted by Petitioner, the apparently omitted figures indicated in the December 15, 2000 Notice do not exist in the application filed on October 24, 2000.

However, the December 15, 2000 Notice was at least correct in advising Applicant that Figure "6D" appeared to have been omitted since it was referred to in the Specification. Therefore, this Notice was properly mailed and will not be withdrawn. The petition is thus dismissed.

Given that the present petition would have been necessitated had there only been the typographical error concerning Figure "6D," the $130 petition fee has been charged to Assignee's Deposit Account No. 09-0456 as authorized in the present petition.

The application is being returned to the Initial Patent Examination Division for further processing of the application, including the preliminary amendment submitted with the present petition, with a filing date of October 24, 2000.

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

Mailed: JAN 30 2004

WK

Paper No. 7

In re application of
Masaru Nakamura
Serial No. 09/695,043
Filed: October 25, 2000
For: DECOMPOSITION APPARATUS OF ORGANIC COMPOUND, DECOMPOSITION METHOD THEREOF, EXCIMER UV LAMP AND EXCIMER EMISSION APPARATUS

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed June 3, 2003, for failure to respond to the Office Action dated November 15, 2002. Applicant contends that although a timely response was sent, it was sent to the parent application.

DECISION

This petition request is accepted as a petition under 37 C.F.R. 1.181 (no fee).

On November 15, 2002, a restriction requirement was issued. On December 10, 2002, a response to the Examiner's Restriction requirement was filed. The header to that Amendment and Response to Restriction Requirement referenced the parent application rather than the serial number and filing date of the subject divisional application. The header did properly identified the Attorney Docket number, the title and specifically referenced the Office Action dated November 15, 2002. The December 10, 2002 Response was apparently never matched with the subject application. Applicant requests a response date of December 10, 2002 and withdrawal of the abandonment for failing to respond to the Office Action of November 15, 2002. In the alternative, applicant requests that if the December 10, 2002 submission is considered fatally defective, please consider this a Petition to Revive an Unintentionally Abandoned application.

A review of the petitioner's evidence provided with the instant petition for erroneous abandonment indicates that the request does not have merit.

37 CFR 1.5 Identification of application, patent or registration.

(a) No correspondence relating to an application should be filed prior to receipt of the application number from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it ***must identify*** on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application.

Applicant admits that the incorrect serial number was placed on the response. Although the other information on the response, i.e. inventor name, attorney docket number, etc, were correct, the main indicator used by the USPTO for matching papers is the US serial number.

Therefore, the holding of abandonment of May 15, 2003 was proper and is maintained.

The petition is **DENIED**.

The application will be forwarded to the Office of Petitions for consideration of applicant's Petition to Revive an Unintentional Abandoned Application.

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

Nixon & Vanderhye P.C.
8th Floor
1100 N. Glebe Road
Arlington, Va. 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Nixon and Vanderhye
1100 N. Glebe Road
8th Floor
Arlington, VA 22201

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MAY 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Masaru Nakamura	:	
Application No. 09/695,043	:	
Filed: October 25, 2000	:	
Attorney Docket No. 1767-72	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004[1], 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 1700.

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

[1] The petition was filed originally on June 3, 2003. The USPTO wishes to apologize for the delay in responding to the petition. Any inconvenience to petitioner is regretted.

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 6,407,088	:	
Issue Date: June 18, 2002	:	
Application No. 09/695,053	:	LETTER
Filed: October 25, 2000	:	
Attorney Docket No. 3519-0103P		

This is in response to the paper filed May 17, 2006 which is being treated under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the May 17, 2006 request, status as a Small Entity has been removed.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Jarman	:	
Application No. 09/695,102	:	NOTICE
Filed: October 23, 2000	:	
Attorney Docket No. 34307/US	:	

This is a notice regarding your November 29, 2004 request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

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**. Office records have been altered to show that you are no longer a small entity.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

This file is being forwarded to Technology Center AU 2611.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/16/07

Paper No.: _____

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/695140 Patent No.: 6962951 B1

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700
SPE

1712
Art Unit

MODIFIED PTO/SB/44 (07-03)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,962,951

DATED: November 8, 2005

INVENTOR(S): Rinya TAKESUE; Yasushi ICHIKAWA

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

At line 64 of column 1, please insert --at least-- in between "of" and "1.0".

At line 1 of Claim 2, please delete "thread-wound" and insert therefor --solid--.

At line 1 of Claim 7, please delete "solid" and insert therefor --thread-wound--.

MAILING ADDRESS OF SENDER:
SUGHRUE MION, PLLC
WASHINGTON OFFICE
23373
CUSTOMER NUMBER

PATENT NO. 6,962,951

No. of additional copies

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PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Rinya TAKESUE, et al.

Appln. No.: 09/695,140

Confirmation No.: 3589

Filed: October 25, 2000

Docket No: Q61468

Group Art Unit: 1712

Examiner: David J. Buttner

Patent No.: 6,962,951

Issue Date: November 8, 2005

For: GOLF BALL MATERIALS AND GOLF BALL

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 C.F.R. § 1.323, please enter the attached Certificate of Correction.

Since at least one of the errors noted is believed to be Applicant's responsibility, a check for the statutory fee of $100.00 is attached. The USPTO is directed and authorized to charge all required fees to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this sheet is enclosed.

In view of the foregoing, issuance of the Certificate of Correction is respectfully requested.

Respectfully submitted,

L. Raul Tamayo
Registration No. 47,125

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

12/14/2006 MBERHE1 00000077 6962951
01 FC:1811 100.00 OP

Date: December 13, 2006

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United States Patent and Trademark Office
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Rissman Jobse Hendricks & Oliverio, LLP
One State Street
Suite 800
Boston, MA 02109

In re Application of	:	
Brian Pulito et al.	:	
Application No. 09/695,193	:	DECISION ON PETITION
Filed: October 24, 2000	:	TO WITHDRAW
Attorney Docket No. 260-135	:	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 26, 2007.

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

A review of the file record indicates that the power of attorney to Rissman Jobse Hendricks & Oliverio, LLP has been revoked by the assignee of the patent application on June 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lotus and Rational Software**
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720

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

Cooley Godward LLP
ATTN: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5601

MAIL

MAY 0 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:	)	
Sanjay Kamble, et al.	)	
Application No. 09/695,235	)	
Filed: October 25, 2000	)	
For: METHOD AND APPARATUS FOR ASSIGNING A VIRTUAL ADDRESS TO AND TEXT-MESSAGING TO MULTIPLE TEXT-CAPABLE DESTINATION ENTITIES	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 2, 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: Mr. Chirag Bakshi
Vice President of Engineering
Unimobile, Inc.
2520 Mission College Blvd.
Suite 103
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Steven Geer	: DECISION ON REQUEST FOR
Patent Number	: 6440332	: RECALCULATION of PATENT
Issue Date	: 08/27/2002	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/695,262	: OF WYETH
Filed	: 10/24/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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JUN 16 2004

Florent Bergeron
6045, rue de la Griotte, Apt.. 124
Quebec, Quebec, G2J 1R2
Canada

copy

Paper No.

In re Application of Florent Bergeron Serial No. : 09/695,272 Filed : October 25, 2000 For : Mechanical Device Used to Make Different Exercises On Ground	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on a communication submitted to the Customer Service Center of Technology 3700 on July 22, 2003, that is being treated as a request to review the holding of abandonment mailed June 27, 2002, for failure to respond to the Office action mailed December 20, 2001. There is no fee required for this petition.

The communication is taken as an allegation that the Office action mailed December 20, 2001 was not received by applicant as the submission merely included a copy of a one page document that was signed May 31, 2001 (and presumably mailed to the Office on or about that date), which document notifies the Office of a correspondence address change. Unfortunately, the paper in question, if received by the Office, was never matched with the instant file, as it does not include the required identifying information, placed on the top page in a conspicuous location, such as the application number, or the serial number and filing date assigned to the application. See 37 CFR 1.5(a) and section 502 of the MPEP. It is also noted that all letters directed to the Office should state the name of applicant, the title of the invention, the date of filing the same, and if known, the group art unit or other unit within the Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned. Under the above circumstances, as the proper procedures were not followed by applicant in notifying the Office of a correspondence address, the holding of abandonment would not be withdrawn and a petition to revive the application under 37 CFR 1.137 would be required.

As stated earlier, abandonment occurred as a result of applicant's failure to reply to an Office action mailed December 20, 2001 (copy attached for applicant's records). The Office action, a Notice of Non-Compliant Amendment (37 CFR 1.121) (hereinafter the "notice") indicated that applicant's response filed October 1, 2001 had not been submitted in the format required under 37 CFR 1.121 in effect at that time. Specifically, it stated that neither a clean version nor a marked-up version of the amended claims was submitted. However, a ~~review of~~ the amendment filed September 26, 2001 (not October 1, 2001 as the notice indicates) reveals that the there is a clean version and a marked-up version of the claims. Accordingly, the issuance of the notice was in error and is hereby vacated. As the notice has been vacated, the holding of abandonment is hereby withdrawn.

Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to have the amendment of September 26, 2001 processed and thereafter, to the examiner for consideration of the amendment. It is also noted that the records of the Office have been changed to reflect applicant's new correspondence address.

Summary: Petition to withdraw holding of abandonment granted.

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

Attachment: copy of Office action mailed December 20, 2001.

ak/6/3/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 16 2004

Florent Bergeron
6045, rue de la Griotte, Apt.. 124
Quebec, Quebec, G2J 1R2
Canada

Paper No. 7

In re Application of Florent Bergeron Serial No. : 09/695,272 Filed : October 25, 2000 For : Mechanical Device Used to Make Different Exercises On Ground	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on a communication submitted to the Customer Service Center of Technology 3700 on July 22, 2003, that is being treated as a request to review the holding of abandonment mailed June 27, 2002, for failure to respond to the Office action mailed December 20, 2001. There is no fee required for this petition.

The communication is taken as an allegation that the Office action mailed December 20, 2001 was not received by applicant as the submission merely included a copy of a one page document that was signed May 31, 2001 (and presumably mailed to the Office on or about that date), which document notifies the Office of a correspondence address change. Unfortunately, the paper in question, if received by the Office, was never matched with the instant file, as it does not include the required identifying information, placed on the top page in a conspicuous location, such as the application number, or the serial number and filing date assigned to the application. See 37 CFR 1.5(a) and section 502 of the MPEP. It is also noted that all letters directed to the Office should state the name of applicant, the title of the invention, the date of filing the same, and if known, the group art unit or other unit within the Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned. Under the above circumstances, as the proper procedures were not followed by applicant in notifying the Office of a correspondence address, the holding of abandonment would not be withdrawn and a petition to revive the application under 37 CFR 1.137 would be required.

As stated earlier, abandonment occurred as a result of applicant's failure to reply to an Office action mailed December 20, 2001 (copy attached for applicant's records). The Office action, a Notice of Non-Compliant Amendment (37 CFR 1.121) (hereinafter the "notice") indicated that applicant's response filed October 1, 2001 had not been submitted in the format required under 37 CFR 1.121 in effect at that time. Specifically, it stated that neither a clean version nor a marked-up version of the amended claims was submitted. However, a review of the amendment filed September 26, 2001 (not October 1, 2001 as the notice indicates) reveals that the there is a clean version and a marked-up version of the claims. Accordingly, the issuance of the notice was in error and is hereby vacated. As the notice has been vacated, the holding of abandonment is hereby withdrawn.

Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to have the amendment of September 26, 2001 processed and thereafter, to the examiner for consideration of the amendment. It is also noted that the records of the Office have been changed to reflect applicant's new correspondence address.

Summary: Petition to withdraw holding of abandonment granted.

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

Attachment: copy of Office action mailed December 20, 2001.

ak/6/3/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

10222004

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

OCT 28 2004

In re Application of
ZHANG et al.
Application No. 09/695,414
Filed: October 25, 2000
Attorney Docket No. 0756-2218

DECISION ON PETITION

This is a decision on the petition filed March 22, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Notice of Appeal was filed on June 25, 2003. A Notice of Abandonment was mailed on December 23, 2003.

Petitioner asserts that the Appeal Brief in response to the Notice of Appeal was timely filed with the appropriate fee in the Patent and Trademark Office on August 28, 2003 (certificate of mailing dated August 25, 2003). This is evidenced by a copy of the postcard receipt indicating receipt of the Appeal Brief and check in the Patent and Trademark Office.

The review of the application file reveals that the Appeal Brief in response to the June 25, 2003 Notice of Appeal and the appropriate fee were received and matched with the file. However, the Appeal Brief was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

BEST AVAILABLE COPY

The application file is being forwarded to the technical support staff for processing the Appeal Brief in response to the June 25, 2003 Notice of Appeal. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

10222004

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

OCT 28 2004

In re Application of	:	
ZHANG et al.	:	DECISION ON PETITION
Application No. 09/695,414	:	
Filed: October 25, 2000	:	
Attorney Docket No. 0756-2218	:	

This is a decision on the petition filed March 22, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Notice of Appeal was filed on June 25, 2003. A Notice of Abandonment was mailed on December 23, 2003.

Petitioner asserts that the Appeal Brief in response to the Notice of Appeal was timely filed with the appropriate fee in the Patent and Trademark Office on August 28, 2003 (certificate of mailing dated August 25, 2003). This is evidenced by a copy of the postcard receipt indicating receipt of the Appeal Brief and check in the Patent and Trademark Office.

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For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Appeal Brief in response to the June 25, 2003 Notice of Appeal. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JAMES W. HINEY ESQ.
1872 PRATT DRIVE
SUITE 1100
BLACKSBURG, VA 24060

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of
Cherouny, et al.
Application No. 09/695,443
Receipt Date: October 24, 2000
Attorney Docket No.: PC 10
For: ELECTRONIC PROGRAMMABLE SPEED LIMITER

ON PETITION

This is a decision on the petition filed June 19, 2001, requesting that the above-identified application be accorded a filing date of October 24, 2000.

The application was deposited on October 24, 2000. However, on May 4, 2001, Initial Patent Examination Division mailed a notice requiring at least one claim in compliance with 35 U.S.C. 112, second paragraph, and stating that the filing date of the application would be the date of receipt of at least one claim.

In response, the present petition was filed wherein petitioners argue that 32 claims were filed on October 24, 2000. In support, the petition is accompanied by a declaration signed by petitioners' attorney, James W. Hiney, stating his belief that he deposited the application in Express Mail service on October 24, 2000, with 32 claims.

The petition is further accompanied by claims 1-32 and newly signed declarations by the inventors.

The argument and evidence have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that 19 pages of specification were filed on October 24, 2000. The USPTO file indicates that no claim or abstract was filed on October 24, 2000, since no claim (other than those supplied on June 19, 2001) or abstract is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that counsel believes the claims were among the papers he mailed is not more persuasive than the actual papers shown to have been received by the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

No postcard receipt has been submitted in this case. If petitioners have a postcard receipt showing that 32 claims were filed on October 24, 2000, the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioners have a postcard receipt acknowledging receipt of 32 claims on October 24, 2000, the postcard receipt or a copy thereof should be supplied accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

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.

The application is entitled to a filing date of June 19, 2001, the date claims 1-32 were filed.

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

The application is being returned to Initial Patent Examination Division for further processing with a filing date of June 19, 2001, using claims 1-32 and the declarations filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC102
AUG 0 6 2002
PATENT & TRADEMARK OFFICE

Paper No. 7

JAMES W. HINEY ESQ.
1872 PRATT DRIVE
SUITE 1100
BLACKSBURG, VA 24060

COPY MAILED
SEP 1 0 2001
OFFICE OF PETITIONS

In re Application of
Cherouny, et al.
Application No. 09/695,443
Receipt Date: October 24, 2000
Attorney Docket No.: PC 10
For: ELECTRONIC PROGRAMMABLE SPEED LIMITER

ON PETITION

This is a decision on the petition filed June 19, 2001, requesting that the above-identified application be accorded a filing date of October 24, 2000.

The application was deposited on October 24, 2000. However, on May 4, 2001, Initial Patent Examination Division mailed a notice requiring at least one claim in compliance with 35 U.S.C. 112, second paragraph, and stating that the filing date of the application would be the date of receipt of at least one claim.

In response, the present petition was filed wherein petitioners argue that 32 claims were filed on October 24, 2000. In support, the petition is accompanied by a declaration signed by petitioners' attorney, James W. Hiney, stating his belief that he deposited the application in Express Mail service on October 24, 2000, with 32 claims.

The petition is further accompanied by claims 1-32 and newly signed declarations by the inventors.

The argument and evidence have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that 19 pages of specification were filed on October 24, 2000. The USPTO file indicates that no claim or abstract was filed on October 24, 2000, since no claim (other than those supplied on June 19, 2001) or abstract is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that counsel believes the claims were among the papers he mailed is not more persuasive than the actual papers shown to have been received by the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

No postcard receipt has been submitted in this case. If petitioners have a postcard receipt showing that 32 claims were filed on October 24, 2000, the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioners have a postcard receipt acknowledging receipt of 32 claims on October 24, 2000, the postcard receipt or a copy thereof should be supplied accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

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.

The application is entitled to a filing date of June 19, 2001, the date claims 1-32 were filed.

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

The application is being returned to Initial Patent Examination Division for further processing with a filing date of June 19, 2001, using claims 1-32 and the declarations filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

JAMES W. HINEY ESQ.
1872 PRATT DRIVE
SUITE 1100
BLACKSBURG, VA 24060

COPY MAILED

JAN 13 2003

OFFICE OF PETITIONS

In re Application of Cherouny, et al. Application No. 09/695,443 Filing Date: June 19, 2001 Attorney Docket No.: PC 10 For: ELECTRONIC PROGRAMMABLE SPEED LIMITER	:	ON PETITION

The above-identified application has been referred to the Office of Petitions for consideration of the letter submitted October 21, 2002. This letter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No fee is due in connection with this matter.

The petition to withdraw the holding of abandonment is **GRANTED**.

On September 10, 2001 a decision on petition was mailed according the instant application a filing date of June 19, 2001. Thereafter, the application was forwarded to the Office of Initial Patent Examination for further processing. The Office of Initial Patent Examination held the application abandoned for failure to timely respond to the decision on petition mailed September 10, 2001, however, no response to the decision was required as a matter of law. Accordingly, the Notice of Abandonment was inappropriate.

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 19, 2001.

Telephone inquires regarding the status of this application should be directed to the Office of Initial Patent Examination at (703)308-1202.

Telephone inquires regarding the contents of the instant decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

MAIL

APR 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Theodore P. Lopez
SKJERVEN MORRILL MacPHERSON
25 Metro Drive
Suite 700
San Jose, CA 95110-1349

In re Application of:
Rehan M. Kahn, et al.
Application No. 09/695,457
Filed: October 24, 2000
For: METHOD AND SYSTEM FOR ANALYZING DIGITAL AUDIO FILES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Attorney filed March 21, 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. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: MOOD LOGIC, Inc.
350 Brannan St.
San Francisco, CA 94107

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Roe Peterson	: DECISION ON REQUEST FOR
Patent Number	: 7617145	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/695,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6319841
Issue Date: November 20,2001
Application No. 09695625
Filed: October 24,2000
Attorney Docket No. 257/004 P96-0001US3

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 26,2010 ,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 26,2010 . 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)
6319841	2001-11-20	09695625	2000-10-24	257/004 P96-0001US3

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
◉	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/craig e. bohn/	Date (YYYY-MM-DD)	2010-01-26
Name	Craig E. Bohn	Registration Number	52629

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.

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)
6,687,927	2004-02-10	09/695,694	2000-10-25	107447-59812

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	/efb/	Date (YYYY-MM-DD)	2008-03-12
Name	Edward F. Behm, Jr.	Registration Number	52606

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. 6687927
Issue Date: February 10,2004
Application No. 09695694
Filed: October 25,2000
Attorney Docket No. R126-P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 12,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES 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

JAMES J. MURPHY
THOMPSON AND KNIGHT LLP
1700 PACIFIC AVENUE
SUITE 3300
DALLAS, TX 75201

JUN 15 2005

In re Application of Axel Thomsen Application No. 09/695,703 Filed: October 25, 2000 Title: Indirect Techniques of Measuring I/F Noises	: : : : :	DECISION ON PETITION

This is a decision on the petition filed March 5, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn, or in the alternative, to revive the application under 37 C.F.R. § 1.137(b).

The petition to withdraw the holding of abandonment is **GRANTED.**

A Notice of Allowance and Fee(s) Due action was mailed on October 3, 2003, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due action was never received and attests to the fact that a search of the attorney's offices, the present application's file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due action was not received. The petition is accompanied by a copy of the docket sheet where the non-received Notice of Allowance and Fee(s) Due Office action would have been entered had it been received.

A review of the written record indicates that a non-final Office action was mailed on September 6, 2002 to the correspondence address provided in the declaration and Power of Attorney filed on April 2, 2001. A reply to the non-final Office action was received on January 2, 2003. A Final Office action was mailed March 31, 2003, again to the correspondence address provided in the declaration and Power of Attorney filed on April 2, 2001. A reply to the Final Office action was received on May 29, 2003 and a supplemental reply was also received September 25, 2003. A

Revocation of Powers of Attorney, a Power of Attorney and a change of address was submitted on March 25, 2002 but not entered into the file.

Pursuant to MPEP § 402.05: Revocation of the power of attorney becomes effective on the date that the revocation is RECEIVED in the Office (not on the date of ACCEPTANCE).

As stated in MPEP § 601.03: The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made.

Petitioner states that the current address of record is Winstead Sechrest & Minick P.C. (change of address submitted with the Revocation and Power of Attorney papers filed on March 25, 2002) where the Notice of Allowance and Fee(s) Due action would have been received.

The written record reveals that the correspondence address was not changed upon receipt of the change of address and that applicant continued to receive communications at the "old" correspondence address.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. 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 received had it been received and docketed must be attached to and referenced in the 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),

Petitioner has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due Office action was not received. Further, petitioner has provided a copy of the docket record where the non-received Notice of Allowance and Fee(s) Due Office action would have been received had it been received and docketed.

Since petitioner has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The period for response set therein will be reset to expire three months from the date these Notices are remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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)
6,552,191	2003-04-22	09/695,711	2000-10-25	3519-0101P

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/mark j. nuell/	Date (YYYY-MM-DD)	2007-04-26
Name	Mark J. Nuell	Registration Number	36623

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. 6552191
Issue Date: April 22,2003
Application No. 09695711
Filed: October 25,2000
Attorney Docket No. 3519-0101P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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.

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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OFFICE OF PETITIONS
A/C PATENTS

Paper No. 4

CHRISTIE PARKER & HALE LLP
P O BOX 7068
PASADENA , CA 91109-7068

In re Application of:
ROFOUGARAN, AHMADREZA, *et al.*
Application No. 60/164,314
Filed: 11/09/1999
Attorney Docket No. 36379/CAG/M7

DECISION GRANTING PETITION

This is a decision on the March 23, 2001 petition under 37 C.F.R. §1.10(d) requesting that the above-identified application be accorded a filing date of November 9, 1999, rather than the presently accorded filing date of November 8, 1999.

Petitioner alleges that the application was deposited in Express Mail service on November 9, 1999. In support, the petition is accompanied by the declaration of Elaine Johnson, a copy of the application (including the cover sheet), a copy of the dated check used to pay the filing fee, a copy of the return postcard receipt (USPTO stamped November 8, 1999), a paper titled "express mail receipt and billing date", and a copy of the Express Mail labels nos. EL280435361US, EL368760144US, EL368760175US, EL368760232US, EL368760229US, EL368760161US, EL368760569US, EL368760541US, and EL078839092US (all alleged to have been deposited on the same date).

In view of the above, *this petition is granted.*[1]

This application will be returned to the Office of Initial Patent Examination for correction of the filing date to November 9, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

for Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

RECEIVED
JAN 29 2002
Technology Center 2600

[1] The document titled "express mail receipt and billing date" appears to have been signed by a postal employee on the date requested. This signature is being taken as corroborating USPS evidence. Should this signature not be that of a USPS employee, Petitioner must notify the USPTO immediately.

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

John H. Sherman, Legal Dept.
Intermec Technologies Corporation
550 2nd Street NE
Cedar Rapids, IA 52401

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MAR 07 2003

OFFICE OF PETITIONS

In re Application of :
James D. Bennett :
Application No. 09/695,718 : ON PETITION
Filed: October 23, 2000 :
Attorney Docket No. YO998-100RA :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner reply to the non-final Office action mailed June 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) have been obtained. Accordingly, the above-identified application became abandoned on September 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 2876 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

MORGAN LEWIS & BOCKIUS
1701 MARKET STREET
PHILADELPHIA, PA 19103

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Darwin J. Prockop et al	:	
Application No. 09/695,769	:	ON PETITION
Filed: October 25, 2000	:	
Attorney Docket No. 9598-101US2(99-0356)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 24, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 25, 2005.

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 $510.00 extension of time submitted with the petition on December 15, 2005 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 AU 1632.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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AUG 13 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Galen C. Hunt et al :
Application No. 09/695,812 :
Filed: October 24, 2000 :
Attorney Docket No. MS1-0547US

This is a decision on the petition, filed August 12, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 21, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2144 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Galen C. Hunt et al :
Application No. 09/695,812 : ON PETITION
Filed: October 24, 2000 :
Attorney Docket No. MS1-0547US

This is a decision on the petition, filed June 30, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 4, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2444 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6509042
Issue Date: January 21,2003
Application No. 09695853
Filed: October 26,2000
Attorney Docket No. KOREN3

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6509042	2003-01-21	09695853	2000-10-26	KOREN3

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	/rlb/	Date (YYYY-MM-DD)	2008-08-08
Name	Roger L. Browdy	Registration Number	25618

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.:20080418

DATE : April 18, 2008

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction on Patent No.: 7232015 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:

SPE: /Robert A. Siconolfi/ **Art Unit** 3683

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ALEXANDRIA, VA 22313-1450
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Michael V. Messinger
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue
Washington, DC 20005

MAILED

NOV 17 2006

Technology Center 2100

In re Application of:	)	
William E. STRUM	)	
Application No. 09/695,932	)	
Filed: October 26, 2000	)	**DECISION ON PETITION TO**
For: METHOD, SYSTEM AND	)	**WITHDRAW HOLDING OF**
COMPUTER PROGRAM PRODUCT	)	**ABANDONMENT UNDER**
FOR MODULATING THE	)	**37 CFR § 1.181**
TRANSMISSION FREQUENCY IN A	)	
REAL TIME OPINION RESEARCH	)	
NETWORK	)	

This is a decision on the petitions, filed 10 June 2005, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. A Notice of Abandonment was mailed on 25 May 2005.

In support of the petition, petitioner asserts that the Notice of Allowability and the Notice of Allowance and Issue Fee mailed 18 January 2005 were not received, and that no record of the Notice of Allowability and Notice of Allowance and Issue Fee Due were found in the applicant's file for this application. Petitioner supplies (1) a Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment; (2) a copy of the matter docket record showing all items docketed for and filed in the application Serial No. 09/695,932 (Exhibit B); and (3) a redacted copy of the docket record where the nonreceived Notice of Allowance would have been entered had it been received and docketed (Exhibit A).

The provided copy of the docket record shows no entry indicating receipt of the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed 18 January 2005.

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 the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed 18 January 2005.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The application is being forwarded to the Technology Center Support Staff to re-mail the Notice of Allowability and Notice of Allowance and Issue Fee Due of 18 January 2005.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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Michael V. Messinger
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue
Washington, DC 20005

MAILED

JAN 30 2007

Technology Center 2100

In re Application of:	)	
William E. STRUM	)	
Application No. 09/695,932	)	
Filed: October 26, 2000	)	**DECISION ON PETITION TO**
For: METHOD, SYSTEM AND	)	**WITHDRAW HOLDING OF**
COMPUTER PROGRAM PRODUCT	)	**ABANDONMENT UNDER**
FOR MODULATING THE	)	**37 CFR § 1.181**
TRANSMISSION FREQUENCY IN A	)	
REAL TIME OPINION RESEARCH	)	
NETWORK	)	

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The provided copy of the docket record shows no entry indicating receipt of the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed 18 January 2005.

The relevant portion of MPEP § 711.03(c) states:

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Petitioner has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed 18 January 2005.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The application is being forwarded to the Technology Center Support Staff to re-mail the Notice of Allowability and Notice of Allowance and Issue Fee Due of 18 January 2005.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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Paper No. 23

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

DEC 29 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Keiichiro Ishihara
Application No. 09/696,000
Filed: October 26, 2000
Attorney Docket No. 35.C14893

This is a decision on the petition, filed December 29, 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 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JAN 12 2004
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FITZPATRICK CELLA

Paper No.

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

S/D
03500-014863
ndy

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DEC 29 2003

OFFICE OF PETITIONS

In re Application of
Keiichiro Ishihara
Application No. 09/696,000
Filed: October 26, 2000
Attorney Docket No. 35.C14893

ON PETITION

RECEIVED
JAN 13 2004
OFFICE OF PETITIONS

This is a decision on the petition, filed December 29, 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 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

RECEIVED
JAN -7 2004

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).

UNITED STATES PATENT & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

#5

MAILED

APR 18 2001

Office of the Director
Group 3600

Thomas L. Bohan & Associates
371 Fore Street, Suite 202
Portland, ME 04101

Paper No. 5

In re Application of:
Jack M. Tarbox et al.
Serial No. 09/696,127
Filed: October 25, 2000
For: WING SPAR MODIFICATION KIT

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 6, 2001 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 6, 2001 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 4/18/01

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Paper No. 34

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Robert A. Sanderson et al :
Application No. 09/696,139 :
Filed: October 25, 2000 :
Attorney Docket No. 09850-005005 :

ON PETITION

This is a decision on the petition, filed April 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 3747 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 7

MAIL

JUN 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard Seventh Floor
Los Angeles CA 90025-1026

In Re Application of
Ted J. Cooper
Application Serial No. 09/696,436
Filed: October 24, 2000
For: **METHOD AND APPARATUS TO PROVIDE EDGE ENHANCEMENTS AS PART OF A DEMOSAICING PROCESS**

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed June 7, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as, figures 1 and 6G 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), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, 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 patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition was filed with the required fee and 3 (three) sets of color drawings of figures 1 and 6G. The amendment filed June 7, 2004 did contain an amendment to the specification which reflects the required notification described above.

The petition is **GRANTED**.

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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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application	:	
Carey B. Fan et al.	:	
Application No. 09/696,446	:	DECISION ON APPLICATION
Filed: October 24, 2000	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No. TRMB-2106	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705) filed May 8, 2009. Applicant requests that the determination of patent term adjustment be corrected from six hundred forty-eight (648) days to nine hundred fifty-two (952) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **HELD IN ABEYANCE** after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). This is true even in this instance where a request for continued examination (RCE) was filed.

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent

term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

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 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 decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for 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

TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

Applicant	: Carey B. Fan	: DECISION ON REQUEST FOR
Patent Number	: 7574606	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/696,446	: OF WYETH
Filed	: 10/24/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 05/18/2010

Applicant : Carey B. Fan
Patent Number : 7574606
Issue Date : 08/11/2009
Application No : 09/696,446
Filed : 10/24/2000

: 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 **1127** 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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OFFICE OF PETITIONS

JAY P. HENDRICKSON
1010 B STREET
SUITE 319
SAN RAFAEL CA 94901

In re Application of	
REDPATH, Timothy et al.	
Application No. 09/696,538	DECISION ON PETITION
Filed: October 25, 2000	TO WITHDRAW
Attorney Docket No. **20563-000100US**	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 11, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that JAY P. HENDRICKSON does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A Graves
Petitions Examiner
Office of Petitions

cc: **FRANK CORSINI**
P.O. BOX 233
EAST DENNIS, MA 02641

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Paper No.

George H. Frates 111
P.O. Box 801
Carmel CA 93921

MAILED

AUG 12 2009

OFFICE OF PETITIONS

In re Application of :
John Bruce Campbell :
Application No. 09/696,589 :
Patent No. 6,435,071 :
Filed: October 26, 2000 :
Issue Date: August 20, 2002 :
Title: VEHICLE FOR TRAVELING :
THROUGH HOSTILE ENVIRONMENTS :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed on August 10, 2007, pursuant to 37 C.F.R. § 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on August 20, 2002. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on August 20, 2006, with no payment received. Accordingly, the patent expired on August 20, 2006 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37

C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule § 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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JUL 26 2004

#13

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of	:
Jan A Verschoor et al	:
Serial No.: 09/696,605	: PETITION DECISION
Filed: October 25, 2000	:
Attorney Docket No.: U013022-9	:

This is in response to the petition under 37 CFR 1.181, filed July 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 a Notice of Allowance and Issue Fee Due and a Notice of Allowability, requiring new drawings, to applicants on June 6, 2002, setting a three month statutory period for reply. Applicants replied on September 6, 2002 (Certificate of Mailing date) by paying the Issue Fee and submitting new sheets of drawing and an amendment under 37 CFR 1.312. The examiner entered the amendment and mailed a new PTO Form 948 to applicants indicating the newly submitted drawings were. Upon failure to submit new drawings a Notice of Abandonment was mailed to applicants on January 10, 2003, with another copy of PTO Form 948.

A review of the PTO Form 948 mailed with the Notice of Allowability shows that Figures 25-27 were not proper photomicrographs, that margins were not acceptable on Figures 4-6, 9-14, 16 and 20 and that lines, number and reference characters were of poor quality or all drawings. The drawings submitted September 12, 2002, were objected to for the same reasons, namely Figures 25-27 and 31 were poor quality photographs, improper margins on Figures 6, 14-16 and 18-19 and poor quality lines characters and numbers on Figures 2-3, 9 and 23-31. Thus applicants corrected only a small number of drawing problems in response to the first notice thereof and have made no effort to file new drawings since them.

Applicants state that no time period for submitting new drawings was set in the Notification of Acceptance of the amendment under 37 CFR 1.312. This is correct. The reverse side of all Forms 948 sent to applicants clearly states, *inter alia,* If corrected drawings are required in a Notice of Allowability the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may not be obtained under the provisions of 37 CFR 1.136(a) or (b). While applicants submitted new drawings, they were in many ways not corrected – i.e. no photographs were submitted, as required. The submission does not reflect a good faith effort to overcome all of the objections to

the drawings set forth. In consequence thereof the application was held abandoned for failure to timely submit corrected drawings.

The petition is **DENIED**. Applicants may seek to revive this application under the provisions of 37 CFR 1.137, but any such effort must include submission of fully acceptable drawings and must be filed within TWO MONTHS of the date of mailing of this decision in order to be considered timely.

The application will be forwarded to Files Repository as an abandoned application.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce C. Kisliuk
Director, Technology Center 1600

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JUN - 1 2006

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

In re Application of	:
Jan A. Verschoor et al	:
Serial No.: 09/696,605	: PETITION DECISION
Filed: October 25, 2000	:
Attorney Docket No.: U013002-9	:

This is in response to the renewed petition under 37 CFR 1.181, filed August 21, 2004 and November 19, 2004, for withdrawal of abandonment of the above identified application based on timely filing of new drawings. The delay in acting on this petition is regretted.

A review of the file history is set forth in the previous petition decision and is suimmarized as follows: A Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed to applicants on June 6, 2002, to which applicants replied by paying the Issue Fee and supplying new drawings on September 12, 2002 (Certificate of Mailing dated September 6, 2002). The submission also included an amendment under 37 CFR 1.312(a) which was accepted by the examiner who noted the filing of the new drawings on October 18, 2002. The acknowledgement also included a Draftsperson's critique of the drawings indicating that they were not acceptable for various reasons. It does not appear that applicants made any further submission of drawings and a Notice of abandonment was mailed to applicants by the examiner on January 10, 2003.

The petitioners argue that the drawings submitted on September 12, 2002, were identical to drawings submitted in a related copending application which issued as US Patent 6,433,013. A comparison of the drawings submitted in this application and the issued patent shows that they are identical, including the photographs. The drawings also appear to be of acceptable quality and to meet the margin requirements and other listed critiques of the draftsperson.. (It is noted, however, that the submission of September 12, 2002, omits Figure 28, a graph, which appears to be of acceptable quality in the originally submitted drawings.

In view of applicants' efforts to provide new and acceptable drawings and since the same set of drawings were provided and accepted in a related application, it has been decided to accept the drawings filed September 12, 2002, and to withdraw the Draftsperson's Notice. In view of this decision the Notice of Abandonment is hereby withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to Publications Division for printing as a patent..

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 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

FISH & RICHARDSON
1425 K STREET NW
WASHINGTON DC 20005-3500

In re Application of	:	
Stijn Van Even et al	:	
Application No. 09/696,685	:	ON PETITION
Filed: October 26, 2000	:	
Attorney Docket No. 06698-081001	:	

This is a decision on the petition, filed December 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2654 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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Paper No. 10

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Theodore W. Walter et al	:	
Application No. 09/696,720	:	NOTICE
Filed: October 24, 2000	:	
Attorney Docket No. 13023(B)	:	

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 2681.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6434881
Issue Date: August 20,2002
Application No. 09696753
Filed: October 26,2000
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 13,2008 ,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 13,2008 . 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)
6434881	2002-08-20	09696753	2000-10-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

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	/Matt Sandy/	Date (YYYY-MM-DD)	2008-08-13
Name	Matt Sandy, General Phosphorix LLC		
Enter Reel and Frame Number		Remove	
Reel Number	018813	Frame Number	0987
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Bulla et al.	:	
Application No. 09/696,801	:	DECISION ON APPLICATION
Filed: October 25, 2000	:	FOR
Atty Docket No. 48279-3USPT	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed February 22, 2005. Applicants assert entitlement to an extension of patent term of at least 16 months and the interval between 22 February and the issue date, depending on the date of issue, based on the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

In re Application of
Palmer, et al.
Application No. 09/696,806
Filed: October 25, 2000
Attorney Docket No. 65-99-003

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 21, 2002, to change the surname of the first named inventor.

The petition is **GRANTED**.

The last name of the first inventor will be changed from "Theis" to "Palmer".

The Change of Correspondence Address, filed August 5, 2002 (certificate of mailing date July 31, 2002), has been entered and made of record. All future correspondence concerning this application will be mailed to the above-identified, new correspondence address of record.

The file is being forwarded to the Office of Initial Patent Examination, Customer Corrections to change Office records to reflect the change of the second inventor's name as noted above, and then to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-308-6712.

E. Shirene Willis
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 07-03

Paper No: 15

DAVIDSON, DAVIDSON
& KAPPEL, LLC
485 SEVENTH AVENUE/14TH FLOOR
NEW YORK NY 10018

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of:
Frank
Filed: 26 October, 2000
Application No. 09/696,812
Docket No.: 600.1095

ON PETITION

This is a decision on the petition filed herein on 30 May, 2003, under 37 C.F.R. §1.137(a)[1] to revive the above-identified application as abandoned due to unavoidable delay, and in light of the allegations also considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.[2]

---

[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:
§1.181 Petition to the Commissioner.
(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.
© When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.
(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. * * *

For the reasons set forth below, the petition:

- considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **DISMISSED**; and

- under 37 C.F.R. §1.137(a) to revive the application alleging unavoidable delay is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[3] (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

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 26 August, 2002, with reply due (absent extension of time) on or before 26 November, 2002;

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * * (Emphasis supplied.)

[3] 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.)

- over a 22 November, 2002, certificate of mail (on the transmittal form) Petitioner filed an after-final amendment (see: 37 C.F.R. §1.116[4]) on 29 November, 2002--however, the Examiner deemed the amendment not a proper reply[5] to the final Office action, refused to enter it, and mailed an Advisory Action on 19 December, 2002, so notifying Petitioner;

- the instant application went abandoned after midnight 26 November, 2002;

- no Notice of Abandonment was mailed before the instant petition was filed on 30 May, 2003;

- with the instant petition, Petitioner:

  --filed on 30 May, 2003, *inter alia*, copies of: (a) a Notice of Appeal, (b) a check in the amount of $730.00 in payment for the Notice of Appeal and a two- (2-) month extension of time and (2) an unstamped receipt card (see: MPEP §503[6]);

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[4] 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.

(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]

[5] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[6] The commentary at MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

37 C.F.R. §1.54. Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53(f) and (g) with regard to completion of an application.

* * *

If a self-addressed postcard is submitted with a patent application, that postcard will be provided with both the receipt date and application number prior to returning it to the addressee. The application number identified on such a postcard receipt is merely the preliminary assignment of an application number to the application, and should not be relied upon (e.g., with respect to foreign filings) as necessarily representing the application number assigned to such application. See 37 C.F.R. 1.53(b). The identifying data on the postcard should include:

(A) applicant's name(s);

(B) title of invention;

© 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

and

--alleged that the foregoing items had been submitted over a 24 January, 2003, certificate of mailing, and, thus, he timely and properly replied to the 26 August, 2002, final Office action.[7]

Petitioner submits no copies of docket records, file jacket covers, mail logs or like documents in support of the allegation of timely filing or unavoidable delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[8]

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provisional application cover sheet); and
(F) amount and manner of paying the fee.
A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

[7] Petitioner repeatedly alleges that he responded to "the December 19, 2002[,] Advisory Action[,]" but as is clear from the Advisory Action itself, any response was due following the 26 August, 2002, final Office action.

[8] 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

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.[9]

Delays in responding properly raise the question whether delays are unavoidable.[10] 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).[11]

And the Petitioner must be diligent in attending to the matter.[12] 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.[13])

Allegations as to the Request to Withdraw
the Holding of Abandonment and
the Petition Alleging Unavoidable Delay

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[14]

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the

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abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[9] 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.

[10] 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).

[11] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[12] 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.

[13] 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.

[14] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

required reply and so permits the maximum extendable statutory period for reply to expire.[15]

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.[16] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[17]

The Office does not doubt that the documents in question--to wit: a Notice of Appeal, a check in the amount of $730.00 in payment for the Notice of Appeal and a two- (2-) month extension of time and an unstamped receipt card--may have been prepared for submission on 24 January, 2003, however, as of this writing there is no support for the allegation that those documents were in fact submitted.

Therefore, Petitioner has failed to satisfy the showing as required under 37 C.F.R. §1.137(a), much less those required under 37 C.F.R. §1.181--the relief sought cannot be granted.

(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[18] in the absence of evidence that the attorney/agent has acted to deceive the client.[19])

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.[20] The Office has

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[15] See MPEP 711.03(c)(III)(C)(2).

[16] 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).

[17] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[18] 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).

[19] 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).

[20] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[21]

Delays such as here are inconsistent with a showing of diligence in the prosecution of the instant application,[22] and this course of action may preclude revival of the application under 37 C.F.R. §1.137.[23]

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.[24]

Should the Petitioner wish to continue to seek revival, he must evidence that the delay--at the very least--was not intentional (and so plead the matter as required under 37 C.F.R. §1.137(b).[25] (See: "Alternative Venue," below.)

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

Moreover, the instant petition fails to satisfy the "showing" requirement as to relief sought.

Therefore, in the absence of those requirements, the petition herein 37 C.F.R. §1.137(a) must be **dismissed**.

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[21] 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.

[22] 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).

[23] 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).

[24] See Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

[25] Any renewed petition should include copies of any correspondence or communications between counsel and applicant, that would rebut any inference that the filing of the first petition to revive was intentionally delayed. This showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application. Petitioner must also supply declarations from himself and Counsel (and all staff of Counsel who may have contributed to the delays) in this regard.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore. As a result, Petitioner's only alternative to irretrievable abandonment is to file a petition and fee (as set forth at NOTE 1, above at page 2) under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional.".

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous. Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[26]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
ATTN.: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[26] 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
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Paper No. 18

DAVIDSON, DAVIDSON
& KAPPEL, LLC
485 SEVENTH AVENUE/14TH FLOOR
NEW YORK NY 10018

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of: :
Frank :
Filed: 26 October, 2000 : ON PETITION
Application No. 09/696,812 :
Docket No.: 600.1095 :

This is a decision on the petition filed herein on 11 September, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application as abandoned due to unintentional delay.

For the reasons set forth below, the petition is **GRANTED,** and as authorized fees (petition $1,300.00), extension of time ($$410.00) and Notice of Appeal ($320.00) are charged to Deposit Account 50-0552.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 26 August, 2002, with reply due (absent extension of time) on or before 26 November, 2002;

- over a 22 November, 2002, certificate of mail (on the transmittal form) Petitioner filed an after-final amendment (see: 37 C.F.R. §1.116) on 29 November, 2002--however, the Examiner deemed the amendment not a proper reply[1] to the final Office action, refused to enter it, and mailed an Advisory Action on 19 December, 2002, so notifying Petitioner;

- the instant application went abandoned after midnight 26 November, 2002;

[1] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

- no Notice of Abandonment was mailed before the original petition was filed on 30 May, 2003, and that petition to revive under 37(b)37 C.F.R. §1.137(a), and due to the allegations of timely filing also treated under 37 C.F.R. §1.181 as a request to withdraw the holding of abandonment, and the petition(s) were dismissed on 9 July, 2003;

- therein, Petitioner:

  --filed on 30 May, 2003, *inter alia*, copies of: (a) a Notice of Appeal, (b) a check in the amount of $730.00 in payment for the Notice of Appeal and a two- (2-) month extension of time and (2) an unstamped receipt card (see: MPEP §503); and

  --alleged that the foregoing items had been submitted over a 24 January, 2003, certificate of mailing, and, thus, he timely and properly replied to the 26 August, 2002, final Office action;

  --but Petitioner submitted no copies of docket records, file jacket covers, mail logs or like documents in support of the allegation of timely filing or unavoidable delay;

- with the instant petition, Petitioner satisfies the "fee," "reply" (Notice of Appeal and fee) and "statement" requirements of a petition treated under 37 C.F.R. §1.137(b).

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).

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]

---

[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.

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])

CONCLUSION

Petitioner has satisfied the regulatory requirements and the petition under 37 C.F.R. §1.137(b) hereby is **granted**.

Petitioner's brief, compliant with the regulations at 37 C.F.R. §1.192, is due within two (2) months of the date of this decision.

The instant application is forwarded to Technology Center 2800 to await the filing of Petitioner's Brief (with fee) on appeal.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[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.

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Paper No. 18

DAVIDSON, DAVIDSON
& KAPPEL, LLC
485 SEVENTH AVENUE/14TH FLOOR
NEW YORK NY 10018

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JAN 3 0 2004
OFFICE OF PETITIONS

In re Application of: :
Frank :
Filed: 26 October, 2000 : ON PETITION
Application No. 09/696,812 :
Docket No.: 600.1095 :

This is a decision on the petition filed herein on 17 December, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application as abandoned due to unintentional delay.

For the reasons set forth below, the petition is **DISMISSED as moot**.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 26 August, 2002, with reply due (absent extension of time) on or before 26 November, 2002;
- over a 22 November, 2002, certificate of mail (on the transmittal form) Petitioner filed an after-final amendment (see: 37 C.F.R. §1.116) on 29 November, 2002--however, the Examiner deemed the amendment not a proper reply[1] to the final Office action, refused to enter it, and mailed an Advisory Action on 19 December, 2002, so notifying Petitioner;
- the instant application went abandoned after midnight 26 November, 2002;
- no Notice of Abandonment was mailed before the original petition was filed on 30 May, 2003, and that petition to revive under 37(b)37 C.F.R. §1.137(a), and due to the

[1] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

allegations of timely filing also treated under 37 C.F.R. §1.181 as a request to withdraw the holding of abandonment, and the petition(s) were dismissed on 9 July, 2003;

- a petition under 37 C.F.R. §1.137(b) was filed on 11 September, 2003, and granted on 22 December, 2003, and therein Petitioner was notified that: **Petitioner's brief, compliant with the regulations at 37 C.F.R. §1.192, is due within two (2) months of the date of that decision**.

Thus, the application was revived and the instant petition is **dismissed as moot**.

The instant application is forwarded to Technology Center 2800 to await the filing of Petitioner's Brief (with fee) on appeal.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Vanhoof et al.	:	
Application No. 09/696,836	:	ON PETITION
Filed: October 25, 2000	:	
Attorney Docket No. IMEC32.004C1	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed October 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on October 25, 2000, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3.[1] In the instant case, the Office noted the claim for priority of the prior-

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1370.00 petition fee is unnecessary and will not be charged to petitioner's deposit account.

While reviewing of the original Declaration submitted with the instant application, it appears there was a claim for the benefit of Provisional Application No. 60/006,012, which was never noted by the Office. If petitioner wishes to claim the benefit of the above-noted provisional application, a petition under 37 CFR 1.78(a)(6) should be submitted.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 2143 for appropriate action on the amendment filed October 26, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Liana Chase
Petitions Examiner
Office of Petitions

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Robert E Bushnell and Law Firm
1522 K Street NW
Suite 300
Washington DC 20005-1202

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OFFICE OF PETITIONS

In re Application of:	:	
Chun-Geun Choi	:	DECISION ON PETITION
Appl. No. 09/697,044	:	UNDER 37 CFR 1.183
Filed October 27, 2000	:	
Atty. Docket No. P56219RE	:	

This is a decision on petition filed under 37 CFR 1.47, 1.181 and 1.183 on October 27, 2000 which is properly treated under 37 CFR 1.183[1] requesting suspension or waiver of the regulations (presumably 37 CFR 1.172) that require the inventors to sign any supplemental declaration in a broadening reissue application.

Petitioner requests waiver of the rule (presumably §1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

The petition is granted.

BACKGROUND

1. U.S. Patent No. 5,828,834 issued to Chun-Geun Choi, on October 27, 1998.

2. A broadening reissue application (the present application) was filed for on October 27, 2000, and it was assigned application number 09/697,044.

[1] If a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed provided it is accompanied by a petition under 37 CFR 1.183 along with the petition fee, requesting waiver of the signature requirement of the nonsigning inventor. MPEP 1414.01

3. During the prosecution of the application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On October 24, 2005, applicant filed the present petition under 37 CFR 1.47 properly treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

5. The petition is accompanied by a "Supplemental Reissue Declaration," signed by Supplemental Reissue Application Declaration by the Assignee," signed October 21, 2005, by Kab-Tae Han, a duly authorized officer of the assignee (Samsung Electronics Company Ltd.). It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.

6. The petition proffers a showing, including a statement of facts by Kab-Tae Han ,Senior manager of Intellectual Assets Group of assignee Samsung Electronics Company Ltd., to establish that the inventor Choi is unavailable to sign the supplemental reissue declaration. The petition and statement of facts, sets forth (a) the efforts made to contact each of the inventors and obtain their requisite signatures on the supplemental declaration, and (b) the lack of success of such efforts to obtain the signature of inventor Choi.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR § 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by all inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventor(s).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventor.

The instant petition is accompanied by an appropriate showing that inventor Choi is unavailable. Accordingly, the supplemental declaration, signed by five of the six inventors will be accepted as though it was signed by the inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172.

CONCLUSION

The present petition to waive 37 CFR 1.172 is granted. The petition fee for a petition filed under 37 CFR 1.183 is $400.00. The Office is in receipt of $200.00. Accordingly, deposit account no. 02-4943 will be charged the $200.00 difference.

The application is being forwarded to Technology Center 2100 for further prosecution.

Please direct any questions related to this decision to the undersigned, at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Manoj Kumar Singhal, et al.	:	
Application No. 09/697,276	:	ON PETITION
Filed: October 26, 2000	:	
Attorney Docket No. 7416/78599	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee, which was submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-7-06

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/697483 Patent No.: 6944228

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 claims / Drawings

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: _____

Mehrdad Dastouri — SPE

2621 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090226

DATE : February 26, 2009

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6,944,228

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:

No new matters introduced. The scope or meanings of the claims has not been changed.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

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OFFICE OF PETITIONS

In re Application of :
Fan, et al. :
Application No. 09/697,518 :
Filed: October 25, 2000 :
Attorney Docket No. M-9069 US :
For: MOBILE CONTROL APPARATUS

ON PETITION

This is a decision on the petition filed December 20, 2004 (certificate of mailing date December 14, 2004) and resubmitted on September 28, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Noncompliant Amendment, mailed March 3, 2003, which set an extendable period for reply of one (1) month. Having received no reply, the Office considered the application abandoned on April 4, 2003. A Notice of Abandonment was mailed on December 14, 2004.

The Office received a Power of Attorney by the assignee of the entire interest on October 3, 2002 (certificate of mailing date September 27, 2002). Unfortunately, the Office did not promptly enter the requested change in address. This error resulted in the March 3, 2003 Notice being mailed to an incorrect address --the previous correspondence address of record.

The petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the December 14, 2004 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

There is no need to re-mail the Office action in question, as petitioners have already submitted a response.

After the mailing of this decision, the application will be forwarded to Technology Center AU 2617 for consideration of the response to the March 3, 2003 Notice, filed on December 20, 2004 (certificate of mailing date December 14, 2004) and resubmitted on September 28, 2006.

Telephone inquiries 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

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Washington, D.C. 20231
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Paper No. 9

ROBERT D. FISH
RUTAN & TUCKER LLP
P O BOX 1950
COSTA MESA, CA 92628-1950

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DEC 16 2002

OFFICE OF PETITIONS

In re Application of
Guangyi Wang et al
Application No. 09/697,545
Filed: October 25, 2000
Attorney Docket No. 100848.213001US4

:DECISION ON PETITIONS
:UNDER 37 CFR 1.78(a)(3) AND
:37 CFR 1.53(e) TO ACCORD
:A FILING DATE
:

This is a decision on the communication filed December 4, 2002, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications noted in the amendment submitted concurrently with the instant petition. The communication is also being treated as a petition under 37 CFR 1.182 to accord a filing date of October 25, 2000 to the instant application.

The petition under 37 CFR 1.78(a)(3) is dismissed as moot.

The petition under 37 CFR 1.182 to accord the above-identified application a filing date of October 25, 2000 is granted.

On October 25, 2000, applicant submitted a transmittal letter for the filing of a continuing application under the provisions of 37 CFR 1.53(b), along with a preliminary amendment containing claims 1-20. This submission did not include a specification or drawings, but did include a preliminary amendment containing claims 1-20. Accordingly, on January 17, 2001, the Office mailed a Notice of Incomplete Nonprovisional Application which stated that the filing date would be the date of receipt of the specification, including at least one claim as prescribed by 35 U.S.C. § 112. No reply having been received, a Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on October 4, 2002 and $580 of the $710 filing fee was refunded and $130 was retained for the handling fee.

On December 4, 2002, applicant submitted the instant petition and a copy of a specification, claims and drawings, presumably from prior-filed Application No.

08/552,363, as noted in the accompanying declaration. Since petitioner asserts that the Notice mailed on January 17, 2001 was never received, a copy thereof accompanies this decision on petition to complete petitioner's records.

It is noted that the transmittal letter for the instant 37 CFR 1.53(b) application received on October 25, 2000 includes an incorporation by reference statement of the entire disclosure of the prior-filed application (No. "09/766,991" [sic, 08/766,991]. Although the incorporation by reference statement includes the wrong series code for the prior-filed application, it is clear that the correct application is Application No. 08/766,991. Therefore, in view of the incorporation by reference statement, on petition under 37 CFR 1.182, the typographical error in the series code will be excused, and, likewise, the USPTO will excuse the delay in filing the specification and drawings in this application, which were already on file as of the filing date accorded this application. As noted in MPEP 201.06(c), the incorporation by reference practice for continuing or divisional applications is only intended as a safeguard to permit the entry of a portion of the referenced incorporated prior application into the host application; not, as here, the entire specification and drawings of the referenced prior application, for which a petition under 37 CFR 1.182 and fee is required. See MPEP 201.06(c)(A).

Turning next to the petition under 37 CFR 1.78(a)(3), a petition under this section is only appropriate if the application was filed on or after November 29, 2000. The instant application was filed on October 25, 2000. Therefore, the petition is dismissed as involving a moot issue.

It is noted that the amendment submitted concurrently with the instant petition makes an incorporation by reference of all the prior-filed applications noted therein. The incorporation by reference statement in the transmittal letter submitted on October 25, 2000 only applies to prior-filed nonprovisional Application No. 09/766,991 [sic, 08/766,991] and, therefore, is only applicable to that application.

Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject

> matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Thus, no other applications can properly be incorporated by reference herein by any amendment filed after October 25, 2000, without *prima facie* raising the issue of new matter. Accordingly, a substitute amendment should be submitted which deletes the incorporation by reference statement for any prior application but 08/766,991.

The petition was accompanied by a $740 filing fee; however, since $580 of the initial filing fee was returned and $130 retained for the handling fee, only $580 of the $740 filing fee submitted is due. Accordingly, petitioner's deposit account will be credited $160 for the overpayment in the basic filing fee. The $130 fee submitted for the instant petition will not be refunded since it was necessary in order to obtain the October 25, 2000 filing date for the instant application.

This application will be forwarded to the Office of Initial Patent Examination Division for processing as a 37 CFR 1.53(b) application with a filing date of October 25, 2000, with the copy of the specification, claims, drawings and declaration supplied on December 4, 2002.

Any questions concerning this decision on petition should be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Copy of Notice mailed January 17, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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COUDERT BROTHERS
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SAN FRANCISCO, CA 94111

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JUL 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Ulf Ahlfors et al. :
Application No. 09/697,708 : LETTER
Filed: October 25, 2000 :
Attorney Docket No. 03964-13 (6563-54185) :

This is in response to the paper filed July 6, 2001 under 37 CFR 1.27(c) seeking status as a small entity.

The Verified Statement Claiming Small Entity Status of July 6, 2001 has been made of record and small entity status has been accorded.

The application file is being forwarded to Technology Center 2600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 18

KARL C. HUFF
1214 WEST GLENLAKE AVE.
CHICAGO, IL 60660

In re Application of
HUFF ET AL.
Appl No.: 09/697,728
Filed: October 27, 2000

DECISION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed May 1, 2003 for failure to timely file corrected drawings required by the Notice of Allowance mailed December 18, 2002.

A review of the file indicates that an interview summary was not timely entered in the file prior to the Notice of Abandonment. The interview summary is now of record and indicates that the examiner had explicitly told applicant that the drawing requirement was in error and that there was no need for applicant to respond to the drawing requirement.

In view of the above, the Notice of Abandonment mailed November 22, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. There are no outstanding requirements and the application will be forwarded to the Office of Publications to issue in due course.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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HAMILTON, BROOK, SMITH, REYNOLDS, P.C.
530 VIRGINIA ROAD, P.O. BOX 9133
CONCORD, MA 01742-9133

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey HAGER, et al	:	
Application No. 09/697,958	:	DECISION ON PETITION
Filed: October 27, 2000	:	
Attorney Docket No. 43997.11.0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 24, 2008, 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 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required 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 2194 for appropriate action by the Examiner in the normal course of business on the reply received January 12, 2009.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Geoffrey Hager	: DECISION ON REQUEST FOR
Patent Number	: 7610588	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/697,958	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1019** 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

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH NC 27606

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FEB 06 2003

OFFICE OF PETITIONS

In re Application of
Nsonwu, et al.
Application No. 09/697,964
Filed: October 27, 2000
Attorney Docket No. SNY-P4033

ON PETITION

This is a decision on the Petition to Revive on the Grounds of Unavoidable Abandonment, filed October 25, 2002 (Certificate of Mailing dated October 15, 2002), which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed December 26, 2000. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and surcharge for its late filing). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on February 27, 2001. A Notice of Abandonment was mailed on October 4, 2002.

Petitioner contends that he did timely file an executed declaration in response to the Notice to File Missing Parts. In support thereof, petitioner has included, *inter alia*, a copy of postcard receipt, itemizing a "Declaration and Power of Attorney" and bearing a USPTO date stamp of January 12, 2001.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this decision, the petition fee of $110 will be refunded to petitioner under separate cover.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

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FEB 03 2003

OFFICE OF PETITIONS

ON PETITION

Ritter, Lang & Kaplan
12930 Saratoga AE. Suite D1
Saratoga, CA 95070

In re Application of :
Dawn C. Maurer, et al. :
Application No. 09/697,994 :
Filed: October 26, 2000 :
Attorney Docket No. RATLP005C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action March 7, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 3600, Art Unit 3621.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

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JAN 07 2005

OFFICE OF PETITIONS

In re Application :
Fride et al. :
Application No. 09/698,071 : DECISION ON APPLICATION
Filed: October 30, 2000 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 7754-071 :

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed September 22, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred forty-five (245) days to two hundred fifty-six (256) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred twenty-six **(226)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 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 245 days. On September 22, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 11 days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed December 29, 2000.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The reduction of 11 days has been found to be incorrect. A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed December 29, 2000, is of record in the application with a date of receipt by the Office of January 5, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 11 days.

---

[1] The Issue Fee payment was also received in the Office on September 22, 2004.

The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

However, a review of the application history has revealed that applicants failed to engage in reasonable efforts to conclude prosecution by filing a supplemental paper on May 13, 2004. As set forth at 37 CFR 1.704(c)(8), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, 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 initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

In this instance, applicants filed a request for continued examination on April 13, 2004, and then filed a further affidavit on May 13, 2004. The record does not support a conclusion that the additional reply to the final Office action was expressly requested by the examiner. Thus, the period of reduction is thirty (30) days, the number of days beginning on the day after the date the initial reply was filed, April 14, 2004 and ending on the date that the supplemental reply was filed, May 13, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred twenty-six (226) 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 Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries
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

#4
7-1-03

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JUL 01 2003

TECHNOLOGY CENTER 2100

Paper No. 4

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:	)	
BURTON, et al.	)	
Application No. 09/698,188	)	**DECISION ON REQUEST FOR**
Filed: October 30, 2000	)	**WITHDRAWAL AS ATTORNEY**
For: HOST-FABRIC ADAPTER HAVING HARDWARE ASSIST ARCHITECTURE AND METHOD OF CONNECTING A HOST SYSTEM TO A CHANNEL-BASED SWITCHED FABRIC IN A DATA NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed June 24, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 24, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Anne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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DIW Jul-06

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Jan F. Jannink	:	
Application No. 09/698,195	:	DECISION ON PETITION
Filed: 30 October, 2000	:	
For: SYSTEMS AND METHODS FOR	:	
VISUALIZATION OF DATA SETS	:	
CONTAINING INTERRELATED OBJECTS	:	

This is a decision on the petition filed on 11 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 March, 2006, for failure to timely reply to the Examiner's Answer mailed on 4 January, 2006, setting forth a new ground of rejection, which set a two (2)

---

[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)).

month period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a reply under 37 CFR 1.111 along with a request to reopen prosecution.

This application is being referred to Technology Center Art Unit 2672 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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STERNE, KESSLER, GOLDSTEIN & FOX P. L. L.C.
1100 New York Avenue NW, Suite 600
Washington DC 20005-3934

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
FU, et al.	:	
Application No. 09/698,246	:	DECISION ON PETITION
Filed: October 30, 2000	:	TO WITHDRAW
Attorney Docket No. 1997.0010002	:	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 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Linda E. Horner. Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-10-07

TO SPE OF : Technology Center 2151 09/698255

SUBJECT : Request for Certificate of Correction on Patent No.: 6898627 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Khanh Dinh
A.U. 2151

V. Madi Wills
SPE

2151
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 2 3 2001

#4

In re application of	:	
Alexander Elias Napoles et al	:	
Serial No.: 09/698,332	:	DECISION ON PETITION
Filed: October 27, 2000	:	TO MAKE SPECIAL
For: METHOD FOR FUMIGATING	:	UNDER M.P.E.P. 708.02 V
PERISHABLES WITHIN A REFRIGER-	:	
ATED CARGO CONTAINER	:	

This is a decision on the petition filed on October 27, 2000, requesting that the above identified application be granted Special Status under Sections 37 C.F.R. 1.102 and M.P.E.P 708.02 V.

The petition has been considered and found to comply with the requirements set forth under the above noted section. Accordingly, the petition is granted.

The petition is GRANTED.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Ruben Yuri Alcoba
Suite 201
6700 S.W. 21st Street
Miami, FL 33155

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

JAMES R. CYPHER
405 14TH STREET, SUITE 1607
OAKLAND, CA 94612

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
William D. Georges et al
Application No. 09/698,382
Filed: October 27, 2000
Attorney Docket No. SST/1061

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed September 26, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 6

PETER I. LIPPMAN
ASHEN & LIPPMAN
4385 OCEAN VIEW BOULEVARD
MONTROSE, CA 91020

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MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of
Carlson, Rolf E.
Application No. 09/698,507
Filed: October 26, 2000
Attorney Docket No. xRCa-12

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 2003, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment 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 January 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before March 2, 2001. A Notice of Abandonment was mailed on October 1, 2002.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on March 5, 2001 of 1.Executed Declaration and Power of Attorney; 2. Executed Independent-Inventor Averment; and 3. Cover Letter in Duplicate.

The reply acknowledged as having been received in the USPTO on March 5, 2001 is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. However, since the originally submitted reply was received after the two month period for reply, a one-month extension of time was required. Accordingly, the $130.00 petition fee submitted with the instant petition on December 19, 2003, will be transferred to the $55.00

extension of time fee. The remaining $75.00 will be credited to petitioner's deposit account as authorized.

The Office sincerely apologizes for the inconvinience caused the petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 11

SKJERVEN MORRILL LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

JUN 30 2003

In re Application of	:	
Christopher J. Curtin et al.	:	
Application No. 09/698,696	:	
Filed: October 27, 2000	:	DECISION ON REQUEST TO
For: STRUCTURE AND FABRICATION OF	:	WITHDRAW FROM RECORD
DEVICE, SUCH AS LIGHT-EMITTING	:	
DEVICE OR ELECTRON-EMITTING	:	
DEVICE, HAVING GETTER REGION	:	

This is a decision on the request filed by Ronald J. Meetin, to withdraw as attorney or agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on February 20, 2003. Mr. Meetin signed on behalf of all attorneys and agents of record in this application.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will be directed to "Wagner Murabito & Hao LLP" at the address provided below unless otherwise notified by applicant.

Any inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Wagner Murabito & Hao LLP
Two North Market St., Third Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 21 2005

Wagner, Murabito, Hao, LLP
Two North Market St.
Third Floor
San Jose, CA 95113

In re Application of:	:	
Curtin et al.	:	
Serial No.: 09/698,696	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 27, 2000	:	
Attorney Docket No.: **CT-A131 US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 28, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by John P. Wagner, Jr., on behalf of all the attorneys/agents of record associated with customer number 41066. The request is **APPROVED**. However, since Ronald J. Meetin and Duke K.Amaniampong are not associated with customer number 41066, they remain as attorneys of record and only John P. Wagner, Jr. is withdrawn (see power of attorney filed 9/5/03).

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Ronald J. Meetin, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Ronald J. Meetin, Attorney at Law
210 Central Ave.
Mountain View, CA 94043-4869

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

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JUL 5 2001

OFFICE OF PETITIONS
A/C PATENTS

SPRINT COMMUNICATIONS COMPANY
HARLEY R. BALL
8140 WARD PARKWAY 5W
KANSAS CITY, MO 64114

In re Application of Camp, et al. Application No. 09/698,729 Filed: October 27, 2000 Atty. Dkt. No. SPRINTIDF139 For: COMPUTER SOFTWARE METHOD FOR ADMINISTERING BATCH JOBS	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the petition under 37 CFR 1.47(a) filed March 26, 2001 and supplemented May 22, 2001.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Vedder Price Kaufman & Kammholz PC
222 North LaSalle Street
Chicago, Illinois 60601

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Hojabri
Application No. 09/698,739
Filed: October 27, 2000
Attorney Docket No. PO4329-P01

DECISION GRANTING PETITION

This decision is in response to Applicant's "PETITION TO CORRECT PATENT TERM ADJUSTMENT" timely[1] filed on December 22, 2004 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 511 days to 685 days.

Applicant's petition to correct PTA is **GRANTED.** The Office will adjust the PTA at the time of the mailing of the notice of allowance to reflect six hundred and eighty-five (685) days. The Office will provide a copy of the adjusted PTA determination with this decision.

Applicant argues that the Office failed to provide an administrative delay for the response to the filing of the RCE on January 13, 2004. Applicant argues that the Office improperly entered the date of resubmission by applicant of previously filed RCE rather than the actual date of the submission of the RCE. Applicant provided proof of an auto-response by the Office reflecting receipt of RCE at the USPTO on January 13, 2004. Accordingly, applicant argues that the USPTO needed to respond to the RCE by May 13, 2004 but did not do such until November 3,2004.

Applicant arguments as well as calculations are persuasive. Applicant have submitted an auto response receipt reflecting that applicant did in fact respond to the mailed notice of allowance on January 13, 2004 rather than the date of July 22, 2004. Accordingly, the USPTO was late in replying to the RCE by a period of one hundred and seventy-four days (174).[2] See 37 CFR 1.702(a)(2). In addition, the Office had a delay of five hundred and eleven (511) days for failing to initially act upon the application within 14 months of the filing of the application. See 37 CFR 1.702(a)(1). Overall, the amount of PTA accrued at the time of the mailing of the notice of allowance is six hundred and eighty-five (685) days as suggested by applicants.

The applicant has submitted the $200.00 application fee required for this "petition." Accordingly no additional fees are required .

---

[1] Issue filed on January 11, 2005.

[2]The RCE was submitted on January 13, 2004 and should have been responded to by May 13, 2004. However, the Office did not respond until November 3, 2004. Accordingly, the administrative delay began on May 14, 2004 and ended on November 3, 2004.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuance of the application will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 15 2002

UR
PAPER NO. 4

In re Application of Edward W. Jackson Serial No. 09/698,747 Filed: October 27, 2000 For: METHOD AND APPARATUS FOR INTRODUCING SULPHER DIOXIDE INTO AQUEOUS SOLUTIONS	:	DECISION ON PETITION UNDER 708.02, V

This is in response to the petition filed April 22, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Todd E. Zenger
KIRTON & McCONKIE
60 E. South Temple, Suite 1800
Salt Lake City, UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Grant E. Pollack
Pollack, P.C.
The Chrysler Building
132 East 43rd Street, Suite 760
New York, NY 10017

COPY MAILED

MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
REZVANI, et al. :
Application No.: 09/698,764 :
Filed: October 27, 2000 :
Attorney Docket No.: 1061.1007 :
For: ADAPTIVE METHOD FOR :
AMORTIZING AUTHENTICATION :
OVERHEAD :

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 February 21, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawing sheets in a timely manner in reply to the Notice of Allowance mailed September 19, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on December 20, 2005.

On February 21, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of corrected drawings. Accordingly, the filing of corrected drawings 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.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

ERIC M. DOWLING
INTERLINK 731
POST OFFICE BOX 02-5635
MIAMI, FL 33102-5635

COPY MAILED

OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Eric M. Dowling	:	
Application No. 09/698,882	:	ON PETITION
Filed: October 27, 2000	:	
Attorney Docket No. EDM-FED.001A	:	

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 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2151 for further processing of the request for continued examination under 37 CFR 1.114 filed September 20, 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).

Padmanabhan, Sreeni

From: Newsome, Lamonte
Sent: Friday, May 29, 2009 2:00 PM
To: Padmanabhan, Sreeni
Subject: FW: 09698901

2nd Request!

From: Newsome, Lamonte
Sent: Wednesday, May 13, 2009 12:44 PM
To: Padmanabhan, Sreeni
Subject: 09698901

Paper No.: _____

DATE : 5/13/09

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 09698901 Patent No.: 6660729 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

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.

6/1/09

Comments: _____

_____

_____

_____

_____

SPE

1617

Art Unit

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www.uspto.gov

JJGJR.: 02-05

Paper No: __

ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE CA 95126

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

In re Application of
Smith :
Application No. 09/698,929 :
Filing Date: 26 October, 2000
Attorney Docket No. RS50 :

This is a decision on the petition filed on 29 December, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 5 June, 2001, with reply due absent extension of time on or before 5 September, 2001;
- the Application went abandoned after midnight 5 September, 2001;
- the Office mailed a Notice of Abandonment on 5 April, 2002;
- with the instant petition (in which Petitioner failed to complete (*i.e.*, sign and date) the certificate of mailing under 37 C.F.R. §1.8), Petitioner tendered $685.00 and, thus, Petitioner failed to pay the full fee under the regulation (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2005feb01.htm for the current fee and ensure that fees are accompanied by a completed (*i.e.*, signed and dated) certificate of mailing under 37 C.F.R. §1.8), in addition to the reply and statement of unintentional delay.

The fee is jurisdictional. Therefore, the substance of the petition cannot be addressed until the fee requirement under the regulation is satisfied.(Petitioner also should ensure that any renewed submission satisfies not only the "fee" requirement, but also the "reply" and "statement/showing" requirements under the regulation.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[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]))

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 failed to satisfy at least the "fee" requirement of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

---

[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.

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJR.: 03-05

Paper No: __

ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE CA 95126

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of
Smith :
Application No. 09/698,929 :
Filing Date: 26 October, 2000
Attorney Docket No. RS50 :

This is a decision on the petition filed on 7 March, 2005, to revive the instant application 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:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 5 June, 2001, with reply due absent extension of time on or before 5 September, 2001;
- the Application went abandoned after midnight 5 September, 2001;
- the Office mailed a Notice of Abandonment on 5 April, 2002;
- while Petitioner did file a reply in the form of an amendment and did make the statement of unintentional delay with the original petition filed on 29 December, 2004, Petitioner tendered less than the entire petition fee, and so the petition was dismissed on 28 February, 2005;

- Petitioner now has remedied that deficiency.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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 now has satisfied the requirements of the regulation.

The record (including the petitions filed on 29 December, 2004, and 7 March, 2005) does not necessitate a finding that the delay between midnight 5 September, 2001), and 7 March, 2005, was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner Robert Samuel Smith when accepting Petitioner's representation that the delay in filing the response was unintentional.[7]

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 19 2005

ROBERT E. HANSON
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701

In re Application of	:
Gang Chen et al.	:
Serial No.: 09/699,023	: PETITION TO MAKE SPECIAL
Filed: October 27, 2000	:
Attorney Docket No.: USTB-675US	:

This is in response to applicants' petition filed November 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d) and M.P.E.P 707.02.

This application satisfies the provisions set forth in M.P.E.P. 707.02 and 708.01(I) in that it the subject matter has been pending in this and its parent application for more than 5 years. The application will be considered special in view of its extended pendency. The petition is granted.

The application has recently been acted on by the examiner and applicants' reply is awaited prior to further action.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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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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JAN 0 6 2005

OFFICE OF PETITIONS

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

In re Application of
Shiv Kumar, et al.
Application No. 09/699,030
Filed: October 26, 2000
Attorney Docket No. 030516.0029CON1

ON PETITION

This is a decision on the petition, filed October 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed September 15, 2003. On October 14, 2004, the present petition and an amendment, including a 3-month extension of time were filed. Although no decision on the petition had been mailed, the amendment filed October 14, 2004 was considered and a final Office action was mailed on October 28, 2004.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This decision returns the application to a pending status and ratifies the ensuing prosecution. Accordingly, petitioner is advised that the time period set in the final Office action mailed October 28, 2004, continues to run.

During a telephone conversation between applicants' counsel, David Lentina, and the undersigned on January 5, 2005, Mr. Lentina authorized the US Patent and Trademark Office to charge the requisite petition fee to his deposit account. Counsel's deposit account will be so charged.

It is noted that petitioner submitted a 3-month extension of time with the present petition. Petitioner is advised that 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. Therefore, 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 extension fees submitted with the present petition 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 1637 to await a response to the final Office action mailed October 28, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KENNETH D'ALESSANDRO
SIERRA PATENT GROUP, LTD.
P.O. BOX 6149
STATELINE, NV 89449

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Patent No. 6,880,624 :
Issue Date. April 19, 2005 :
Application No. 09/699,035 : NOTICE
Filed: October 27, 2000 :
Attorney Docket No. P1-005 :

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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. David W. Osborne appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Osborne desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Osborne, 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.

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) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DAVID W.OSBORNE
THORPE NORTH AND WESTERN, LLP
8180 SOUTH 700 EAST, SUITE 350
SANDY, UT 84070

#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

JAN - 8 2003

MAILED

JAN - 8 2003

Office of the Director
Group 3600

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20006

In re application of
Jerome Chin et al.
Application No. 09/699,087
Filed: October 27, 2000
For: SYSTEM AND METOD FOR
REPLICATING WEB-SITES

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on November 20, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (B) above.

As to condition (B), no reason for the withdrawal has been provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

#12
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

APR 30 2003

Guy R. Gosnell, Esq.
Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

MAILED

APR 30 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Jerome Chen et al.
Application No. 09/699,087 :
Filed: October 27, 2000 :
For: SYSTEM AND METHOD FOR REPLICATING WEB-SITES :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 12, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of March 17, 2003.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 4/30/03

Cc: Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, N.W.
Washington, DC 20005

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Frederick S. M. Herz	: DECISION ON REQUEST FOR
Patent Number	: 7630986	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/699,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **102** 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.go

Paper No. 15

John T. Kennedy
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

MAIL

JAN 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Michael J. Freeman, et al.
Application No. 09/699,163
Filed: October 27, 2000
For: DIGITAL INTERACTIVE SYSTEM FOR PROVIDING FULL INTERACTIVITY WITH LIVE PROGRAMMING EVENTS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 20, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future correspondence will be directed to the address listed below until such a time as a request for change of address is filed. The application is being returned to TC 2600 central files to await action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

CC: MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

FEB 2 6 2001
PATENT & TRADEMARK OFFICE

SECTOR

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail, with sufficient postage, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on February 21, 2001

Date of Deposit

Kay Bulen
(Name)

Kay Bulen
(Signature)

February 21, 2001
(Date of Signature)

Docket No. 47675-14

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Markl et al.

Serial No.: 09/699,243

Filed: October 27, 2000

For: METHYLATION ALTERED DNA SEQUENCES AS MARKERS ASSOCIATED WITH HUMAN CANCER

Examiner: not yet assigned

Group Art Unit: 1743

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION FILING DATE GRANTED

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In accordance with the Notice to File Missing Parts of Application Filing Date Granted dated December 21, 2000, a copy of which is attached, enclosed herewith for filing are the following documents:

☒ Fully executed Declaration for Patent Application for the above-referenced patent application.

☒ Applicant is:

☒ a small entity

☐ other than small entity

☒ Check totaling $420 for:

☒ Filing Fee of $355.00.

☒ Surcharge of $65.00.

☐ Additional Claim Fees of $_____.

☐ Petition for Extension of Time (37 C.F.R. § 1.136(a)) to file missing parts (in duplicate).

☒ Other: postcard evidencing receipt.

☒ The Assistant Commissioner is hereby authorized to charge any deficiencies in fees or credit overpayment to Deposit Account No. 04-0258. A duplicate copy of this paper is enclosed.

Respectfully submitted,

Dated: February 21, 2001

Barry L. Davison
Registration No. 47,309
Attorney for Applicants

Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Tel: 206-628-7621

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FEB 2 6 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
09/699,243	10/27/2000	Isabel Markl	47675-14

23504
DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, AZ 98101-1688

FORMALITIES LETTER

OC000000005633171

Date Mailed: 12/21/2000

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 **$ 710** *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 $ 840.**

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

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

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

Mail Date: 04/26/2010

Applicant	: Isabel D.C. Markl	: DECISION ON REQUEST FOR
Patent Number	: 7662549	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/699,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100526

DATE : June 2, 2010

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction on Patent No.: 6828431

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 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: /Marjorie Moran/ **Art Unit** 1631

UNITED STATES 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

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN, SC 29349-7307

COPY MAILED
DEC 29 2003
OFFICE OF PETITIONS

In re Application of	:	
Launeil Sanders	:	
Application No. 09/699,318	:	ON PETITION
Filed: 30 October, 2000	:	
For: RAW INFLUENT TREATMENT	:	
PROCESSES ELIMINATING SECONDARY	:	
BIOLOGICAL TREATMENT	:	

This is a decision on the petition filed on 6 October, 2003, under 37 CFR 1.137(a), which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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)." This is not a final agency decision.

This application became abandoned on 6 March, 2003, for failure to file a timely response to the final Office action mailed on 5 December, 2002, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 July, 2003.

In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181)

petition to withdraw the holding of abandonment.[1] The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The petition should include sufficient data describing the procedures and controls utilized by the addressee when correspondence is received from the Patent and Trademark Office. If possible, the addressee should also point out how these procedures and controls were followed in the situation at hand.

The showing of record is not sufficient to withdraw the holding of abandonment.

A review of the written record indicates no irregularity in the mailing of the aforementioned Office communication, and, in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has provided no evidence that the final Office action mailed on 5 December, 2002, was not received. Additionally, petitioner has not provided a showing that a response to the final Office action was timely submitted. As such, the holding of abandonment cannot be withdrawn.

ALTERNATE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), 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). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application

---

[1] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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)).

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 petitioner's convenience.

The change of correspondence address filed on 6 October, 2003, has been entered.

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 concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64
Privacy Act Notification

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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dw 02-04

Paper No. 16

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN, SC 29349-7307

COPY MAILED
FEB 03 2004
OFFICE OF PETITIONS

In re Application of Launeil Sanders Application No. 09/699,318 Filed: 30 October, 2000 For: RAW INFLUENT TREATMENT PROCESSES ELIMINATING SECONDARY BIOLOGICAL TREATMENT	: : : : : : :	ON PETITION

This is a decision on the renewed petition filed on 16 January, 2004, under 37 CFR 1.137(a).

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)." This is not a final agency decision.

This application became abandoned on 6 March, 2003, for failure to file a timely response to the final Office action mailed on 5 December, 2002, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. An untimely amendment was received on 31 January, 2003. Notice of Abandonment was mailed on 2 July, 2003. The petition filed on 6 October, 2003, was treated as a petition under 37 CFR 1.181 for lack of a petition fee, and was dismissed on 29 December, 2003.

Petitioner asserts unavoidable delay in filing the reply to the final Office action, stating "I do not control the U.S. Postal Service nor delivery of the U.S. Mail by the U.S. Postal Service."

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)).

This petition lacks items (1) and (3).

With regard to item (1), the petition lacks the required reply. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. The examiner has determined that the reply filed on 6 October, 2003, does not place the case in *prima facie* condition for allowance. No new attempted reply was submitted with the present renewed petition. Petitioner must submit a proper reply to the final Office action mailed on 5 December, 2002, with any renewed petition.

With regard to item (3), the Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable".[1] Decisions on

[1] 35 U.S.C. § 133.

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 not sufficient to withdraw the holding of abandonment.

At the outset, as stated above, the reply filed on 31 July, 2003, was not a timely reply to the final Office action mailed on 5 December, 2002. While the Office certainly does not expect petitioner to control the USPS or the delivery of mail, petitioner's failure to file the reply at issue in compliance with 37 CFR 1.8 or 1.10 precludes a finding that the delay was unavoidable. It is petitioner's burden to supply, under the rules of practice, sufficient evidence to establish that the reply asserted to have been deposited within the U.S. Postal Service on 31 January, 2003, was actually entrusted to the U.S. Postal Service on that date.[3] At best, the showing of record reveals petitioner's intent to timely reply to the Office action. Petitioner apparently did not either use the Certificate of Mailing procedure, or make a copy of the Certificate of Mailing,

---

[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 Krahn v. Commissioner, 15 USPQ2d 1823, 1825, (E.D. Va 1990); see also MPEP 711.03(c)(III)(C)(2).

as required by Office regulations, or if petitioner did, such has not been made of record. Had petitioner relied upon the aforementioned procedure, and made a copy of the Certificate, petitioner could have avoided the predicament which has not arisen. However, petitioner's failure to make, or retain, a copy of the appropriate record(s) is not unavoidable delay. Furthermore, in the absence of any documentary evidence to objectively account for the almost six month (6) month discrepancy between petitioner's asserted date of mailing, and the actual date of receipt of the reply, the delay in this instance cannot reasonably be considered as unavoidable.

Furthermore, assuming, *arguendo*, the reply received on 31 July, 2003, had been timely filed, the application would still have become abandoned because the paper filed on 31 July, 2003, is not a proper reply to the final Office action mailed on 5 December, 2002. The only acceptable reply to a final Office action is a Notice of Appeal, an amendment placing the case in *prima facie* condition for allowance, or a continuing application. Petitioner should note that abandonment occurs by operation of law for failure to timely respond to an Office action, not by operation of the mailing of a Notice of Abandonment.[4]

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.[5] 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.[6]

As petitioner did not submit, within the time period provided in

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[4]See Lorenz v. Finkl, 333 F.2d 885, 889-90, 140 USPQ 26, 29-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

[5]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).

[6]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).

the final Office action, a reply which *prima facie* placed the case in condition for allowance, a Notice of Appeal, or a continuing application, the showing of record is that petitioner is unfamiliar with after-final practice as prescribed at 37 CFR 1.113. It is also noted that extensions of time under 37 CFR 1.136 were available until 5 June, 2002.

In summary, the showing of record is that rather than unavoidable delay, the delay in filing a timely response to the Office action mailed on 5 December, 2002, is due to a lack of diligence on the part of petitioner in prosecution of the application. As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), 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). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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 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 concerning this matter may be directed to the undersigned at (703)308-6918.

DI Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64
FY04 Fee Schedule
Privacy Act Notification

UNITED STATES 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 05-04

Paper No. 18

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN, SC 29349-7307

COPY MAILED

MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Launeil Sanders	:	
Application No. 09/699,318	:	ON PETITION
Filed: 30 October, 2000	:	
For: RAW INFLUENT TREATMENT	:	
PROCESSES ELIMINATING SECONDARY	:	
BIOLOGICAL TREATMENT	:	

This is a decision on the renewed petition filed on 24 February, 2004, under 37 CFR 1.137(a).

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)." This is not a final agency decision.

This application became abandoned on 6 March, 2003, for failure to file a timely response to the final Office action mailed on 5 December, 2002, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. An untimely amendment was received on 31 January, 2003. Notice of Abandonment was mailed on 2 July, 2003. The petition filed on 6 October, 2003, was treated as a petition under 37 CFR 1.181 for lack of a petition fee, and was dismissed on 29 December, 2003. The petition under 37 CFR 1.137(a) filed on 16 January, 2004, was dismissed on 3 February, 2004.

The present renewed petition was filed on 24 February, 2004, accompanied by a paper in which petitioner stating that a Notice of Appeal is attached.

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)).

This petition lacks items (1) and (3).

With regard to item (1), the petition lacks the required reply. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

Petitioner states "Attached is NOTICE OF APPEAL." (Emphasis in original). However, no other paper styled as a Notice of Appeal is attached thereto. As such, while the paper referenced above will be treated as an attempt to file a Notice of Appeal, the proper fee for filing a Notice of Appeal has not been submitted therewith. While petitioner has submitted a check for $55.00. The proper fee for a Notice of Appeal (Small Entity), however, is $165.00. Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for

which a fee or charge is payable.[1] The $55.00 check will be applied to petitioner's account and held to await the balance due for the Notice of Appeal.

With regard to item (3), the Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable"delay.[4] A delay caused by an applicant's lack of knowledge or improper application of the

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[1] See 37 CFR 1.22(a); MPEP 509

[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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.[5]

Petitioner has provided no evidence supporting a finding of unavoidable delay. The petition will therefore be dismissed.

ALTERNATE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), 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). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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

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[5] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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 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 concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64
FY04 Fee Schedule
Privacy Act Notification

UNITED STATES 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 05-04

Paper No. 21

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN, SC 29349-7307

COPY MAILED
MAY 2 7 2004
OFFICE OF PETITIONS

In re Application of	:	
Launeil Sanders	:	
Application No. 09/699,318	:	ON PETITION
Filed: 30 October, 2000	:	
For: RAW INFLUENT TREATMENT	:	
PROCESSES ELIMINATING SECONDARY	:	
BIOLOGICAL TREATMENT	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 2 April, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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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)).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 6 March, 2003, for failure to file a timely response to the final Office action mailed on 5 December, 2002, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. An untimely amendment was received on 31 January, 2003. Notice of Abandonment was mailed on 2 July, 2003. The petition filed on 6 October, 2003, was treated as a petition under 37 CFR 1.181 for lack of a petition fee, and was dismissed on 29 December, 2003. The petition under 37 CFR 1.137(a) filed on 16 January, 2004, was dismissed on 3 February, 2004. The renewed petition under 37 CFR 1.137(a) filed on 24 February, 2004, was dismissed on 21 May, 2004.

This petition lacks the reply required by 37 CFR 1.137(b)(1).

With regard to item (1), the petition lacks the required reply. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

Petitioner states that a Notice of Appeal is enclosed as the required reply. It is noted that petitioner submitted a check for $665.00 on 2 April, 2004 for the petition fee. However, the Notice of Appeal fee of $165.00 is due in addition to the petition fee. Petitioner previously submitted a check for $55.00 on 24 February, 2004. Therefore, a balance of $110.00 is required to complete the Notice of Appeal fee.

Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] The $55.00 check will be applied to petitioner's account and held to await the balance due for the Notice of Appeal.

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[2] See 37 CFR 1.22(a); MPEP 509

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

OR (for replies filed on or after 5 June, 2004)

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 06-04

Paper No. 23

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN, SC 29349-7307

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JUN 2 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Launeil Sanders	:	
Application No. 09/699,318	:	ON PETITION
Filed: 30 October, 2000	:	
For: RAW INFLUENT TREATMENT	:	
PROCESSES ELIMINATING SECONDARY	:	
BIOLOGICAL TREATMENT	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 7 June, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 6 March, 2003, for failure to file a timely response to the final Office action mailed on 5

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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)).

December, 2002, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. An untimely amendment was received on 31 January, 2003. Notice of Abandonment was mailed on 2 July, 2003. The petition filed on 6 October, 2003, was treated as a petition under 37 CFR 1.181 for lack of a petition fee, and was dismissed on 29 December, 2003. The petition under 37 CFR 1.137(a) filed on 16 January, 2004, was dismissed on 3 February, 2004. The renewed petition under 37 CFR 1.137(a) filed on 24 February, 2004, was dismissed on 21 May, 2004. The petition under 37 CFR 1.137(b) filed on 2 April, 2004, was dismissed on 27 May, 2004.

The Notice of Appeal filed 2 April, 2004, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAUNEIL SANDERS
4005 HIGHWAY 11
INMAN SC 29349-7307

COPY MAILED

AUG 0 4 2008

In re Application of :
Sanders :
Application No. 09/699,318 : DECISION ON PETITION
Filed: October 30, 2000 :
Attorney Docket No. N/A :
For: RAW INFLUENT TREATMENT PROCESSES ELIMINATING SECONDARY BIOLOGICAL TREATMENT

This is a decision on the petition, filed May 27, 2008, 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 pay the issue fee on or before April 22, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 22, 2008.

Petitioner asserts that the Notice dated January 22, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is not necessary to re-mail the Notice of Allowability and the Notice of Allowance and Fee(s) Due of January 22, 2008 because petitioner has submitted the $720.00 issue fee due.

The application will be forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries pertaining to this decision 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
www.uspto.gov

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of
Hanna Abi-Saleh
Application No. 09/699,324
Filed: October 27, 2000
Attorney Docket No. 60976-0038-US

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed August 23, 2004, requesting that the above-identified application be accorded a filing date of October 27l, 2000, instead of the presently accorded date of October 30, 2004.

Petitioner alleges that the application was deposited in "Express Mail" service with the United States Postal Service (USPS), on October 27, 2003. In support, petitioners provide, *inter alia*, a copy of the Express Mail label, receipt No. EL451595335US. The same Express Mail receipt number was referred to in the original transmittal letter found in the application file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 27, 20009.

The petition is granted.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **October 27, 2000** and for issuance of a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

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JUN 2 6 2003

OFFICE OF PETITIONS

Joseph F. Schrader
22 Pearl Street
New Hartford, NY 13413

In re Application of
Joseph Schrader
Application No. 09/699,328
Filed: October 30, 2000
Title of Invention: ED ERGONOMICALLY DESIGNED WALKER

ON PETITION

This is a decision on the petition filed November 25, 2002, under 37 CFR 1.137(b) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(b) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a timely reply to the Notice to file Missing Parts mailed January 4, 2001. The Notice to File Missing Parts set an extendable reply period of March 4, 2001. Extensions of time were not obtained under the provisions of 37 CFR 1.136 (a). This application became abandoned on March 5, 2001. A Notice of Abandonment was mailed on June 5, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (2).

As to item (2), petitioner has failed to provide the correct petition fee. Pursuant to 37 CFR 1.17(m) the fee to revive an unintentionally abandoned application for a small entity is $650.00.

A review of the record shows applicant submitted a check in the amount of $185.00. Petitioner allotted $130.00 to go towards the petition fee and $55.00 towards the terminal disclaimer fee. As stated above the petition fee for revival is $650.00. Since the above-identified application was not filed prior to June 8, 1995, a terminal disclaimer is not required. As such the money provided will go towards the required reply to the Notice to File Missing Parts. Twenty five dollars ($25.00) will be used to complete the

basic filing fee in the amount of $370.00.[1] The Notice also required petitioner submit $65.00 for the late filing of the filing fee. Thus $65.00 of the money provided will be used towards the late filing fee. As such petitioner is left with $95.00. On renewed petition applicant should submit $555.00 to complete the required $650.00 petition to revive fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]Petitioner is required to pay the filing fee that was in effect at the time the petition was submitted. Thus, petitioner is required to pay $25.00 versus the $10.00 that was required in 2001. The filing fee as of November 25, 2002 was $370.00

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Paper No. 8

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JAN 0 8 2004

OFFICE OF PETITIONS

ON PETITION

Joseph F. Schrader
22 Pearl Street
New Hartford, NY 13413

In re Application of
Joseph Schrader
Application No. 09/699,328
Filed: October 30, 2000
Title of Invention: ED ERGONOMICALLY DESIGNED WALKER

This is a decision on the renewed petition filed November 13, 2003, under 37 CFR 1.137(b) and supplemented on December 30, 2003 to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a timely reply to the Notice to file Missing Parts mailed January 4, 2001. The Notice to File Missing Parts set an extendable reply period of March 4, 2001. Extensions of time were not obtained under the provisions of 37 CFR 1.136 (a). This application became abandoned on March 5, 2001. A Notice of Abandonment was mailed on June 5, 2003. A petition under 37 CFR 1.137(b) was dismissed on June 26, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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JAN 2 3 2003

Office of the Director
Group 3600

Paper No. 15

In re Application of Hajime Ito et al.
Appl. No.: 09/699,371
Filed: October 31, 2000
For: VEHICLE INFORMATION PROCESSING METHOD, APPARATUS THEREFOR AND VEHICLE THEREWITH

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This letter is in response to applicants' Petition Under 37 C.F.R. 1.144 and 1.81(c) received November 4, 2002 requesting a review of the requirement for an election of species made October 10, 2001. The petition seeks clarification of whether or not the restriction requirement is proper and requests that the examiner be overruled as to the requirement.

A review of the record indicates that the examiner required an election of species on October 10, 2001 (paper no.2) between a vehicle information system (claims 1, 11, and 21); a vehicle information system (claims 2, 3, 12, and 13); a vehicle communication system (claims 4-8 and 14-18); and a vehicle navigation system (claims 9, 10, 19, and 20). The applicants traversed the restriction, pointing out the supposed errors, and electing the invention of Group I (claims 1, 11, and 21) on December 10, 2001 (paper no. 4). In the next Office Action, mailed January 15, 2002 (paper no. 5) the election of species requirement was made final. The examiner additionally withdrew claims 2-10 and 12-20 as being drawn to the non-elected species. In the amendment of June 13, 2002 (paper no. 8) applicants amended claims 1, 4-11 and 14-21 and requested reconsideration of the finality of the election of species requirement. The examiner maintained the requirement for restriction in the final Office action of July 7, 2002 (paper no.9). It is at this point in the prosecution that the Office received the above-noted petition.

As to the question of whether the restriction requirement is proper, the criteria for a proper restriction is whether the inventions are independent (i.e. species under a genus which are not usable together as disclosed) MPEP 802.01, and whether they are patentably distinct MPEP 806.04(h). Since the claims of the different species all depend from claim 1, they all contain the limitations of claim 1. This would preclude them from being patentably distinct over each other. The examiner has pointed out how the different groups add different limitations to claim 1, but has not demonstrated how they are patentably distinct from each other.

The requirement for election of species of October 10, 2001 is hereby vacated.

The petition is GRANTED.

The application will be returned to the examiner for immediate action consistent with this decision, including the preparation of a non-final Office action.

Donald Hajec,
Director, Patent Examining Group 3600
(703) 308-1134

Finnegan, Henderson, Farabow, Garrett &
Dunner LLP
1300 I Street, NW
Washington, DC 20006

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JUN 22 2004

Office of the Director
Group 3600

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of
Hajime Ito et al.
Application No. 09/669,371
Filed: October 31, 2000
For: VEHICLE INFORMATION PROCESSING METHOD, APPARATUS THEREFOR AND VEHICLE THEREWITH

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on March 9, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated May 8, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/mjz: 5/27/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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Crowell & Moring, LLP
Intellectual Property group
P.O. Box 14300
Washington, DC 20044-4300

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AUG 23 2005

Technology Center 2100

In re Application of: Masahiro Matsuo	)	**DECISION ON PETITION UNDER 37 CFR §1.181 FOR SUPERVISORY REVIEW**
Application No.: 09/699,402	)	
Filed: October 31, 2000	)	
For: NETWORK APPARATUS FOR ACCESSING SERVICES OVER A NETWORK	)	

This is a decision on the petition under 37 CFR 1.181 filed May 6, 2005 requesting withdrawal of the finality of the Office action mailed on April 8, 2005 and that a new Office action be issued with a new period for reply.

Applicant correctly points out that new grounds of rejection which were not necessitated by amendment were applied in the April 8, 2005 Office action. Accordingly, the action should have been designated as non-final.

The Petition is **GRANTED** to the extent that the finality of the April 8, 2005 action is withdrawn.

However, the relief requested - issuance of a new action and the setting of a new time period - is **denied**. Because the April 8, 2005 action is designated as non-final, Applicant's amendment of July 28, 2005 is entered as a matter of right.

The application is being forwarded to the Examiner for appropriate action.

Any inquiries with respect to this decision may be addressed to the undersigned at the number provided below.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

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MAR 10 2008

TC 2100

Stephen Palan
Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300
Washington DC 20044-4300

In re Application of:
Masahiro Matsuo
Application No. 09/699,402
Filed: October 31, 2000
For: Network Apparatus for Accessing Services over a Network

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed February 27, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed February 21, 2008.

The petition is **DISMISSED**.

On February 27, 2008, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office action mailed February 21, 2008. The petition stated that no IDS with certification was filed to cause the examiner to make the new art rejection final and that the amendment only was incorporating the features of claim 3 into claim 2 thus no new rejection was necessitated by the amendment.

A review of the record indicates that the amendment was more than just moving claim 3 into claim 2 and in fact most of the claim elements have been changed. One of the significant changes that would necessitate a new grounds of rejection perhaps is the change of the identification code storage means for storing an identification code **identifying itself** to an identification code storage storing an identification code of **the remote controller**.

Accordingly the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
Technology Center 2100
Computer Architecture, Software, and
Information Security

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MAR 28 2008

TECHNOLOGY CENTER 2100

Stephen Palan
Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300
Washington DC 20044-4300

In re Application of:
Masahiro Matsuo
Application No. 09/699,402
Filed: October 31, 2000
For: Network Apparatus for Accessing Services over a Network

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a second decision on the petition filed February 27, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed February 21, 2008.

The petition is **Granted**.

This decision was generated from a phone call from Mr. Palan on March 27, 2008. He correctly stated that the February petition was drawn to claim 3 not changing whereas the previous decision discussed the changing of scope of claim 2. The grounds of rejection in the final rejection was changed without being necessitated by amendment nor an IDS and therefore the finality of that action was premature and the finality is hereby withdrawn. The period for response continues to run from February 21, 2008.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Stephen Palan
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Washington DC 20044-4300

In re Application of:
Masahiro Matsuo
Application No. 09/699,402
Filed: October 31, 2000
For: Network Apparatus for Accessing Services over a Network

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed October 7, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed October 3, 2008.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action October 3, 2008. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement. The petitioner alleges that the non final action relied on Ballantyne to teach the claimed "main device determines whether the second display displays the obtained information based on the display switching signal sent from the remote controller device" whereas the final relied on Russell-Falls to teach this unamended feature.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection and that the amendment filed does not justify the new grounds of rejection, therefore the finality of the October 3, 2008 office action is improper and hereby withdrawn. The December 29, 2008 response will be treated as a response to a non final office action and the examiner will act upon the response in due course.

Accordingly, the petition is **GRANTED.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tim Callahan
Technology Center 2400

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Mail Date: 06/25/2010

Applicant	: Masahiro Matsuo	: DECISION ON REQUEST FOR
Patent Number	: 7631192	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/699,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2831** 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.

MAR 0 8 2002

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Washington, D.C. 20231
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Benoit Castel
Young & Thompson
745 South 23rd street
Arlington, VA 22202

In re Application of Kersti STRANDQVIST Application No.: 09/699,451 PCT No.: PCT/SE99/00627 Int. Filing Date: 20 April 1999 Priority Date: 28 April 1998 Attorney's Docket No.: P15484US00 For: ABSORBENT STRUCTURE HAVING IMPROVED ABSORPTION PROPERTIES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b)" filed on 31 October 2000.

BACKGROUND

On 20 April 1999, this international application was filed, which claimed an earliest priority date of 28 April 1998.

A Demand was filed on 11 November 1999 for the above international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 30 October 2000 (the 28th being a Saturday). This international application became abandoned with respect to the United States at midnight on 30 October 2000 for failure pay the basic national fee.

On 31 October 2000, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **31 October 2001**.

The required fees of $130.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No. 25-0120 as authorized in the petition.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

MAY 17 200

5/17/02

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Benoit Castel
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745 South 23rd Street
Arlington, VA 22202

In re Application of Kersti STRANDQVIST Application No.: 09/699,451 PCT NO.: PCT/SE99/00627 Filing Date: 20 April 1999 Priority Date: 28 April 1998 Attorney's Docket No.: P15484US00 For: ABSORBENT STRUCTURE HAVING IMPROVED ABSORPTION PROPERTIES	CORRECTION ON DECISION ON PETITION UNDER 37 CFR 1.137(b)

This response is to correct the decision mailed on 08 March 2002. This decision inadvertently treated the "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. 1.137(b)" as a request to revive international application PCT/SE99/00627 for the purpose of entering the U.S. national stage rather than than for the purpose of copendency with the accompanying 35 USC 111(a) application submission.

Applicants' petition under 37 CFR 1.137(b) filed 31 October 2001 to revive international application PCT/SE99/00627 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as follows:

International application PCT/SE99/00627 became abandoned as to the United States of America at midnight on 30 October 2000 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)). The statement, "the 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" complies with 37 CFR 1.137(b).

International application PCT/SE99/00627 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/699,451.

Therefore, the decision mailed on 08 March 2002 was in error and is hereby **VACATED**.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

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MAR 16 2001

OFFICE OF PETITIONS
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ROTHWELL FIGG ERNST & MANBECK PC
555 13TH STREET NW
SUITE 701-E
WASHINGTON, DC 20004

In re Application of :
David C. Cushing, M. Mitch Bulajic, :
Rohit D'Souza and Kenneth Kramer :
Application No. 09/699,503 :
Filed: October 31, 2000 :
Title: SYSTEM AND METHOD FOR :
EXECUTING STRATEGY SECURITY TRADING:

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition, filed January 25, 2001, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §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 C.F.R. §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.**

The above-identified application was filed on October 31, 2000, with three separate declarations executed by joint inventors David C. Cushing, M. Mitch Bulajic, and Kenneth Kramer on behalf of non-signing joint inventor Rohit D'Souza. Applicant has provided a copy of the return postcard receipt noting that a petition for status under §1.47(a). Having reviewed the receipt and a true copy of the petition, it is concluded that applicant has provided *prima facie* evidence that the §1.47(a) petition and petition fee should be considered filed on the filing date of the application.

On January 17, 2001, the Office mailed applicant a "Notice to File Missing Parts of Nonprovisional Application", requiring the signature of inventor D'Souza on a declaration and a surcharge under 1.16(e) for late filing of the declaration. A partially signed declaration with a petition (and fee) under 1.47 serves to avoid abandonment of the application for failure to reply to the Notice, and if the petition is grantable, satisfies the requirement for an executed declaration. Moreover, as both the declaration and the petition under 1.47 were filed on the filing date of the application, no surcharge for late filing under 1.16(e) is due. The only issue remaining is whether the petition is grantable.

Applicant asserts that §1.47(a) status is proper because joint inventor D'Souza refuses to join in the application for patent. 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. The instant petition does not satisfy requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. To meet this requirement, applicant states that "to the best of the undersigned's knowledge upon information and belief, Mr. D'Souza is a former employee of the assignee of the present patent application, was given a copy of the application to review, but has refused to sign the inventors' declaration." This statement is not supported by documentary evidence of the application papers having been presented to inventor D'Souza. Nor are details of the circumstances of the alleged refusal set forth.

Before a refusal can be alleged, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to the non-signing inventor and he refused to sign. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Moreover, where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. When it is concluded by the rule 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. On request for reconsideration, applicant must be specific and fully describe the facts relied on to conclude that inventor D'Souza refuses to join in the application. Any affidavit or declaration of facts submitted must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

As to item (2), the declarations are not acceptable because they do not comply with 1.63(a)(3) and (c). Applicant properly left the signature block of the non-signing inventor blank under MPEP §409.03(a). However, it was not proper to leave blank the citizenship and mailing address of non-signing inventor D'Souza. To have an acceptable declaration in compliance with 1.63, the citizenship and mailing address of all inventors, regardless of signing status, must be submitted on the declaration or an application data sheet. Applicant must submit a supplemental oath or declaration or application data sheet. See 37 C.F.R. §1.67(a)(3),(4) and §1.76.

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 may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

Rothwell, Figg, Ernst & Manbeck, PC
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A/C PATENTS

In re Application of
Cushing, Bulajic, D'Souza, and Kramer
Application No.: 09/699,503
Filed: October 31, 2000
Attorney Docket No: 2566-106
For: SYSTEM AND METHOD FOR EXECUTING STRATEGY SECURITY TRADING

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 16, 2001.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on January 17, 2001, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice.

In response to the Notice, petitioner filed on January 25, 2001, a petition under 37 CFR 1.47(a) along with a declaration, and other supporting documents. The January 25, 2001, petition was dismissed by a decision mailed March 16, 2001. The decision indicated that petitioner did not prove that the entire application papers were mailed to the non-signing inventor and that petitioner did not provide adequate evidence of the alleged oral refusal of the non-signing inventor to review the application and sign the declaration. The decision also advised that the declaration submitted was not proper because it lacked the mailing address and citizenship of the non-signing inventor.

Petitioner filed the instant renewed petition on May 16, 2001, and provided the declarations of Mr. David C. Cushing and Saul Sarrett, Esq. in which Mr. Cushing and Mr. Sarrett attested to the fact that the entire application papers were sent to the non-signing inventor and that non-signing inventor advised Mr. Cushing that he was declining to execute the declaration. Petitioner also filed a supplemental Application Data Sheet, pursuant to 37 CFR 1.67(a)(3)(4) and 37 CFR 1.76, correcting the deficiency present in the declaration originally filed.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and 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.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Kenya A. 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
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OFFICE OF PETITIONS
A/C PATENTS

Rohit D'Souza
425 Park Avenue South
New York, New York 10016

In re Application of
Cushing, Bulajic, D'Souza, and Kramer
Application No. 09/699,503
Filed: October 31, 2000
For: System and Method for Executing
Stratefy Secuirty Trading

LETTER

Dear Mr. D'Souza:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Rothwell, Fig, Ernst & Manbeck, PC
555 13th Street, NW
Washington, DC 20004

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OFFICE OF PETITIONS

ROTHWELL FIGG ERNST &
MANBECK PC
1425 K STREET NW
SUITE 800
WASHINGTON DC 20005

In re Patent No. 7,613,647	: DECISION ON
Cushing, et al.	: REQUEST FOR RECONSIDERATION
Application No. 09/699,503	: of PATENT TERM ADJUSTMENT
Issue Date: November 3, 2009	: and
Filed: October 31, 2000	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 2566-106	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed January 4, 2010, 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 two hundred thirty-three (233) 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 two hundred thirty-three (233) days is **GRANTED**.

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 Certificate of Corrections 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 **two hundred thirty-three (233)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,613,647 B2

DATED : **November 3, 2009**

INVENTOR(S) : Cushing 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 193 days.

Delete the phrase "by 193 days" and insert – by 233 days--

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Paper No. 19

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

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OFFICE OF PETITIONS

In re Application of Scott Wilber Application No. 09/699,523 Filed: October 30, 2000 Attorney Docket No. 2022/002D1	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE UNDER RULES 1.702(a)(2) AND 1.705(b)," filed January 8, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred fifty-four (154) days. For the reasons set forth herein, the paper has also been treated as a request to withdraw the holding of abandonment.

The application for patent term adjustment is **GRANTED**.

The petition to withdraw the holding of abandonment is also **GRANTED**.

On October 15, 2003, the Office accepted applicant's response to the non-final Office action mailed March 28, 2003. This response was accompanied by a showing pursuant to § 1.8(b) that the response should be treated as timely filed by facsimile on April 9, 2003. Because the record lacks a showing acted on by the Office of previous timely filing of the response[1], and since the response of record was received on October 15, 2003, outside of the period for reply to the non-final Office action, the application appears to have become abandoned for failure to file a timely reply. This holding of abandonment is withdrawn, however, in view of the showing of record of the response's timely filing.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred fifty-four (154) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 29, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-

[1] Applicants filed a paper October 15, 2003 to show timely filing; however, it does not appear that the Office acted on this paper by responding with a decision withdrawing any holding of abandonment.

identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On January 8, 2003, applicant timely submitted the instant request for reconsideration of the patent term adjustment[2]. At the time of the mailing of the notice of allowance, the term of the patent was adjusted by 12 days for the Office's delay in mailing a first Office action under 35 U.S.C. 132. See § 1.703(a)(1). However, the adjustment was reduced by 109 days for applicant's late response received October 15, 2003, to the non-final Office action mailed March 28, 2003. Applicants dispute this reduction, asserting that the response was filed on April 9, 2003 in compliance with § 1.704(b). Moreover, given the April 9, 2003 date of this response, applicants contend entitlement to an adjustment of 142 days for the delay from August 10, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, to December 29, 2003, the date of mailing of the notice of allowance. See § 1.703(a)(2).

As discussed above, the response has been shown to have been filed on April 9, 2003, not October 15, 2003. The response was timely filed within three months of the mailing of the Office action on March 28, 2003 in compliance with § 1.704(b). See 1.704(b). Accordingly, the patent term adjustment should not have been reduced by 109 days.

Further, as stated by applicants, the patent issuing from this application is entitled to an additional adjustment of 142 days for Office delay in taking action in response to applicant's response shown to have been received in the Office on April 9, 2003.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance should have been one hundred fifty-four **(154)** 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 Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Petitions Attorney, at (703) 305-0309.

Karin A 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

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[2] Palm records indicate that the Issue Fee payment was also received in the Office on January 8, 2003.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

June 16, 2003

David P. Halstead
Ropes & Gray
One International Place
Boston, MA 02110-2624

In re application of:
David Beach DECISION ON PETITION
Serial No.: 09/699,580
Filed: October 30, 2000
For: Novel Cdc25 Genes, Encoded Products And Uses Thereof

This is a decision on the petition received on October 29, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in a timely manner to the Notice to File Missing Parts of Application mailed August 10, 200l. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 11, 2001. The notice of abandonment was mailed on September 30, 2002.

On October 29, 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 September 14, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on September 14, 2001.

The petition is hereby Granted.

The documents received on September 26, 2001, have not been associated with the application. These documents are needed to complete the above application. Enclosed are two copies of the decision, send one copy back with the documents of September 26, 2001.

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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JUN 0 8 2005

DOCKET NO.: UNGR-1598 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Evan C. Unger

Confirmation No.: 8248

Application No.: 09/699,679

Group Art Unit: 1617

Filed: October 30, 2000

Examiner: Sharareh, Shahnam J.

For: Novel Targeted Compositions For Diagnostic And Therapeutic Use

CERTIFICATE OF FACSIMILE TRANSMISSION

DATE: June 8, 2005

I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE TO FACSIMILE NUMBER 703-872-9306 ON THE DATE LISTED ABOVE.

Suzanne E. Miller REG. NO. 32,279

APPROVED
10/13/05
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

WITHDRAWAL AS ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

The attorneys associated with the customer number listed below apply to withdraw in the above identified application.

The reasons for this request are: Client has obtained new counsel.

☐ The correspondence address is NOT affected by this withdrawal.

☒ Change the correspondence address and direct all future correspondence to Customer No. 28213.

DLA Piper Rudnick Gray Cary US LLP
4365 Executive Drive
Suite 1100
San Diego, CA 92121-2133

PAGE 2/3 * RCVD AT 6/8/2005 10:25:47 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:2155683439 * DURATION (mm-ss):01-06

This request is made on behalf of myself and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s).
- ☒ the attorneys/agents associated with the following Customer Number:

23377

Date: June 8, 2005

Suzanne E. Miller
Registration No. 32,279

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

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PAGE 3/3 * RCVD AT 6/8/2005 10:25:47 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:2155683439 * DURATION (mm-ss):01-06

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Paper No.

Lerner, David, Littenberg,
Krumholz & Mentlik
600 South Avenue West
Westfield, NJ 07090

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Francine Glick, et al. :
Application No. 09/699,774 :
Filed: October 30, 2000 :
Attorney Docket No. FGLIC3.0-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 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 the Office of Initial Patent Examination for further processing.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 13

MITCHELL JOSEPH AIOSA MORRIS
100 OLD LYME ROAD
PURCHAGE, NY 10577

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FEB 23 2005

Director's Office
Office of Patent Publication

In re Application of :
MORRIS, MITCHELL JOSEPH AIOSA, et al. :
Application No. 09/699,776 :
Filing Date: October 30, 2000 :
Attorney Docket No. MJAM-1999-002 :

DECISION ON PETITION

This is a decision on the Petition To Withdraw The Notice Of Abandonment Under 27 [37] CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on March 15, 2004. The petition was received in the deciding official's office, Office of Patent Publications, on February 16, 2005.

Petitioner states that the Applicant submitted corrected drawings on November 12, 2003. In support of this assertion, the petitioner has submitted a copy of the return postcard and copies of the papers submitted—Response To The Notice Regarding Drawings, Formal Drawings.

The petition is **DISMISSED.**

The Notice of Abandonment indicates that the application was held abandoned for applicant's failure to timely file corrected drawings as required in the Notice of Allowability mailed May 2, 2003.

Review of the application file shows that on September 11, 2003 the Office mailed the Notice Regarding Drawings, which indicated that the drawings received on October 30, 2000 were not acceptable. The applicant was given two months (not extendable under 37 CFR §§ 1.136(a) or (b)) to correct the informalities. Failure to respond within the set period would result in abandonment of the application.

On November 17, 2003 the USPTO received the applicant's Response To The Notice Regarding Drawings (Response) with a Certificate of Mailing (37 CFR § 1.8) executed on November 12, 2003 and 22 sheets of formal drawings. The Response, the Certificate of Mailing and the formal drawings are present in the application file.

The application was abandoned for application failure to timely respond to the Notice within the two month time period, which expired on November 11, 2003, and of which should have been so noted on the Notice of Abandonment.

Applicant should seek further relief by filing a Petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or 1203 of the Official Gazette 63, October 21, 1997, 65 FR 57057, Sept. 20, 2000.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must be accompanied by the following:

  (1) The required reply to the outstanding Office action or notice, unless previously filed;
  (2) The petition fee set forth in § 1.17(l);
  (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be accompanied by the following:

  (1) The required reply to the outstanding Office action or notice, unless previously filed;
  (2) The petition fee as set forth in § 1.17(m);
  (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence or inquires with respect to filing a Petition For Revival Under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9283 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision should be directed to the undersigned at 703-305-9250.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

MITCHELL JOSEPH AIOSA MORRIS
100 OLD LYME ROAD
PURCHAGE, NY 10577

In re Application of :
MORRIS, MITCHELL JOSEPH AIOSA, et al. :
Application No. 09/699,776 :
Filing Date: October 30, 2000 :
Attorney Docket No. MJAM-1999-002 :

DECISION ON PETITION

This is a decision on the Request For Reconsideration Of Decision On Petition Dated February 28, 2005 To Dismiss Petition To Withdraw The Notice Of Abandonment Under 37 CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on March 14, 2005. The attached Petition For Adjustment Of The Patent Term Adjustment will be forwarded to the Office of Patent Legal Administration.

The Request is **GRANTED.** The Decision of Petition mailed February 23, 2005 is **VACATED.**

On November 17, 2003 the USPTO received the applicant's Response To The Notice Regarding Drawings (Response) with a Certificate of Mailing (37 CFR § 1.8) executed on November 12, 2003 and 22 sheets of formal drawings. The Response, the Certificate of Mailing and the formal drawings are present in the application file (scanned as IFW image).

Petitioner states that since the corrected drawings were submitted on November 12, 2003, the next business day after the Federal Holiday, Veteran's Day November 11, 2003, the corrected drawings were timely and the application should not have gone abandoned.

Petitioner statement is correct. Apparently, the determining factor to abandon the application was based on a misprinted calendar, which indicated that Veteran's Day was recognized on Monday November 10, 2003. However, the Office was closed on November 11, 2003 in recognition of the holiday, therefore the fee can be paid on the next succeeding business, which was Wednesday, November 12, 2003.

In view of the above, the holding of abandonment is hereby withdrawn and the corrected drawings accepted as timely filed.

Telephone inquires concerning this decision should be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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United States Patent and Trademark Office
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MITCHELL JOSEPH ALOSA MORRIS
100 OLD LYME RD
PURCHASE NY 10577

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OFFICE OF PETITIONS

In re	:
Mitchell Joseph Alosa Morris	:
Application No. 09/699,776	: DECISION ON APPLICATION
Filed: October 30, 2000	: FOR PATENT TERM ADJUSTMENT
Patent No. 6,992,731	:
Issued: January 31, 2006	:

This is a decision on the "PETITION FOR ADJUSTMENT OF THE PATENT TERM ADJUSTMENT DATED MAY 2, 2003", filed March 14, 2005.

The application for patent term adjustment is **DISMISSED**.

The Notice of Allowance was mailed on May 2, 2003. Applicant paid the issue fee on August 4, 2003. Pursuant to 37 C.F.R. §1.705(b), a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance must be filed no later than payment of the issue fee. Moreover, such request must include the fee set forth in §1.18(e).

Accordingly, Patentee's argument is untimely raised. It is noted for the record, however, that the PTO was attributed seven hundred eighty-nine (789) days of Office delay for the failure to issue the patent within four months of payment of the issue fee.

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

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Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of
Ye et al.
Application No.: 09/699,783
Filed: October 30, 2000
Attorney Docket No.: 10467.49US01
For: IMPROVED SUPERCONDUCTING RESONATOR FOR NARROWBAND FILTERS

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 or alternatively to revive abandoned application under 37 CFR 1.137(b), filed February 27, 2006.

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **Dismissed Without Prejudice** and the petition under 37 CFR 1.137(b) is **GRANTED** .

Applicant states in the present petition that the Fees Transmittal Form was submitted by facsimile on September 15, 2005, which authorized the USPTO to deduct the issue from applicant's deposit account. However, at the time of processing the USPTO was unable to deduct the issue fee from the Deposit Account due to insufficient funds. (It is noted that customers' monthly deposit account statements are currently being sorted in ascending order based on the accounting date and by sale sequence number, NOT in the true order in which each transaction occurred based on system date and time.)

Therefore, the above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 19, 2005.

On February 27, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The issue fee will be charged to Deposit Account no. 13-2725.

The application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/8/06

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/669748 Patent No.: 7096416

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN HONG
SUPERVISORY PATENT EXAMINER
SPE

_____
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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MAIL

Paper No. 5

JUN 0 5 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FLORIDA 33022-2480

In re Application of
BERNARD RAAF, et al.
Application No.: 09/699,835
Filed: October 30, 2000
For: DATA TRANSMISSION WITH INTERRUPTION PHASES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to treat the above-identified application as special and advance the examination thereof, filed May 21, 2001.

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 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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TECHNOLOGY CENTER 2600

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of:
RAAF, BERNHARD
Application No. 09/699,835
Filed: October 30, 2000
For: **DATA TRANSMISSION WITH INTERRUPTION PHASES**

DECISION ON PETITION

This is a decision on the Petition filed May 2, 2003, which is being treated under 37 C.F.R. § 1.8 to withdraw the holding of abandonment. 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 April 10, 2002. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner alleges to have timely filed a response to the non-final Office action. In support, Petitioner has provided a copy of a response to the non-final Office action including a Certificate of Facsimile Transmission dated July 10, 2002.

Under 37 CFR 1.8(a)(1), correspondence is considered timely if
(1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and
(2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Pursuant to 37 CFR 1.8(b), a correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence (emphasis added):
1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The statement required in item 3.) above must be from the party who forwarded the original correspondence. In the instant transmission Werner H. Stemer signed the Certificate of Facsimile Transmission. He must make the statement in accordance with 37 CFR 1.8(b)(3).

For the reason above, the petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted.

Kenneth A. Wieder for
Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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TECHNOLOGY CENTER 2600

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of:
Bernhard RAAF
Application No. 09/699,835
Filed: October 30, 2000
For: **DATA TRANSMISSION WITH INTERRUPTION PHASES**

DECISION
ON PETITION

This is a response to the Request for Reconsideration of Petition Under 37 C.F.R. § 1.8(b), filed June 7, 2004.

This application became abandoned for failure to timely file a response to the non-final Office action mailed April 10, 2002. A Notice of Abandonment was mailed April 22, 2003.

Petitioner alleges to have timely filed a response to the Office action. To support this position, Petitioner has included with the instant petition a copy of a response bearing a proper certificate of transmission having a date of July 10, 2002.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition now meets the requirements as set forth above. Accordingly, the holding of abandonment is withdrawn.

The petition is **Granted**.

The application will be forwarded to the Technology Center's technical support staff for entry of the response submitted with the petition. From there, the file will be forwarded to the examiner for consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080312

DATE : March 12, 2008

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6,755,157

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: Steve Cronin Art Unit 3747

PTOL-306 (Rev. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

Attorney's Docket No.: 00967-052001 / R70507

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William M. Stevens et al.
Patent No. : 6,755,157
Issue Date : June 29, 2004
Serial No. : 09/699,850
Filed : October 30, 2000
Title : MOUNT FOR CONNECTING AUTOMOTIVE FAN MOTOR TO HOUSING

Art Unit : 3747
Examiner : Katrina B. Harris

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REQUEST FOR CERTIFICATE OF CORRECTION

Applicant hereby requests that a certificate of correction be issued for the above patent in accordance with the attached request.

All errors sought to be corrected were made in printing by the Patent and Trademark Office, and no fee is believed to be due.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 10/3/2007

John W. Freeman

John W. Freeman, Esq.
Reg. No. 29,066

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21750834.doc

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: 10/3/07

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 6,755,157

APPLICATION NO .: 09/699,850

DATED .: JUNE 29, 2004

INVENTOR(S) .: WILLIAM M. STEVENS, WILLIAM MURRAY BLACK, STEPHEN NICHOLLS, MARKUS LIEDEL, THOMAS HELMING, PETER BRUDER, HUGO HERRMANN, BRITT WEINGAND, KLAUS WEICKENMEIER, JENS ULRICH

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover page, (75) Inventors, "Stephens Nicholls", should be -- Stephen Nicholls --.

Cover page, (75) Inventors, "Hugo Hermann", should be -- Hugo Herrmann --.

Cover page, (75) Inventors, "Britt Weigand", should be -- Britt Weingard --.

MAILING ADDRESS OF SENDER:

John W. Freeman, Esq.
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH PA 15143

In re Application of:
PADMANABHAN, et al
Application No. 09/699,894
Filed: October 30, 2000
For: **MINIMUM BAYES ERROR FEATURE SELECTION IN SPEECH RECOGNITION**

DECISION ON PETITION

This is a response to the Petition to Withdraw Notice of Abandonment, filed November 15, 2004. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the Office action mailed January 16, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on September 8, 2004.

Petitioner alleges to have timely filed a response to the Office action on July 16, 2003. To support this position, Petitioner has included with the instant petition a copy of the response along with petition for three months extension of time bearing a proper certificate of mailing having a date of July 16, 2003.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response and petition for three months extension. From there, the file will be forwarded to the examiner for consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of :
Matthew S. Cooper :
Application No. 09/699,897 : ON PETITION
Filed: October 27, 2000 :
Attorney Docket No. H0001190(4016) :

This is a decision on the petition, filed January 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1753 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : January 24, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Matthew S. Cooper
Application No. : 09/699,897
Filed : October 27, 2000

The above-identified application has been assigned Patent No. 6,846,397 and an issue date of January 25, 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 January 25, 2005:

"All reference to Patent No. 6,846,397 to Matthew S. Cooper of Portersville, PA for PHYSICAL VAPOR DEPOSITION COMPONENTS AND METHODS OF FORMATION appearing in the Official Gazette of January 25, 2005 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: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
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

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Director's Office
Group 3700

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia
30309-4530

In re Application of
Roger J. Talish et al
Serial No. 09/700,014
Filed: December 29, 2000
For: ULTRASOUND BANDAGES

DECISION ON PETITION

This is a decision on petitioner's request filed August 4, 2003 to review the holding of abandonment, mailed July 15, 2003 for failure to respond to the Office action of July 30, 2002.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated August 28, 2002.

In view of the above, the Notice of Abandonment mailed July 15, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764
IL

EXPRESS MAIL NO. EV336593255US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Yau Wai Lucas Hui
Application No.	:	09/700,071
371 Filing Date	:	January 26, 2001
PCT App. No.	:	PCT/SG98/00034
Int'l Filing Date	:	May 12, 1998
For	:	CONDITIONAL MASKING FOR VIDEO ENCODER

Examiner	:	Shawn S. An
Art Unit	:	2613
Date of Notice of Allowance	:	November 4, 2003
Docket No.	:	851663.418USPC
Date	:	February 4, 2004

Mail Stop Issue Fee
Commissioner for Patents
Washington, DC 20231

APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents:

The applicants hereby requests reconsideration of the patent term provided with the Determination of Patent Term Extension under 35 U.S.C. 154(b) provided with the Notice of Allowance mailed November 4, 2003. A check in the amount of $200 for this application is enclosed.

The Determination of Patent Term Extension under 35 U.S.C. 154(b) indicates that the Patent Term Extension is 0 days, but did not indicate any patent term adjustment. The applicants submit that the correct patent term adjustment for this case is 588 days.

The Determination of Patent Term Extension under 35 U.S.C. 154(b) incorrectly indicates that the application was filed prior to May 29, 2000. A request to begin national examination procedures under 35 U.S.C. § 371 (f) was filed on November 9, 2000 based on

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03 FC:1455 200.00 OP

International Application No. PCT/SG98/00034, which was filed on May 12, 1998. The 35 U.S.C. § 371(c) requirements were completed on January 26, 2001, and thus, the filing date given to the present application was January 26, 2001.

The USPTO has stated that the correct date for determining whether the national phase of a PCT application is subject to a Patent Term Adjustment under 35 U.S.C. § 154 (b) is the date in which the national stage commenced under 35 U.S.C. § 371 (b) or (f). See enclosed copy of the first page, Comment 31, and the USPTO Response of USPTO Notice of September 18, 2000, which was originally published at 65 Fed. Reg. 56,365-56,394. In particular, the USPTO Response to Comment 31 states, "The Office is interpreting the phrase "actual filing date of the application in the United States" in 35 U.S.C. § 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. § 371(b) or (f) in the case of an international application." As discussed above, the present application commenced the national stage of International Application No. PCT/SG98/0034 under 35 U.S.C. § 371(f) on November 9, 2000, which is after May 29, 2000. Accordingly, the present application is entitled to the benefit of the provisions of 35 U.S.C. § 154(b) providing for a Patent Term Adjustment.

The relevant date that begins the period under 35 U.S.C. § 154(b)(1)(A) for determining whether there is a delay by the USPTO during the national phase of an international application is the date on which all of the requirements of 35 U.S.C. § 371 have been met. As discussed above, in the present case, all of the requirements of 35 U.S.C. § 371 were met on January 26, 2001. The fourteen month period provided for an initial response under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151 expired on March 26, 2002. There was no notification under 35 U.S.C. § 132 from the USPTO on this case prior to issuing the Notice of Allowance on November 4, 2003. There are 588 days from March 26, 2002 until November 24, 2003.

There are no circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination and there has been no terminal disclaimer filed for this application. A first preliminary amendment was filed on February 28, 2002, which added new claim 15 and amended several of the original claims to better correspond to U.S. format. The first substantive contact from the USPTO regarding this application was a phone message left by Examiner An for the applicant's attorney on October 20, 2003. The applicant's attorney returned the phone call on October 20, 2003 and left a message for Examiner

An. On October 22, 2003, Examiner An and the applicant's attorney engaged in a telephone interview during which the Examiner agreed to allow all pending claims if some of the claims were amended. The applicant filed a second preliminary amendment the next day, October 23, 2003, which made the requested changes. No further exchanges were made until the Notice of Allowance was issued on November 4, 2003. As a result, the applicant did not fail to engage in reasonable efforts to conclude processing or examination of the present application.

In view of the foregoing, the patent to be issued from the present application is entitled to a patent term adjustment of 588 days and the applicant requests that such a patent term adjustment be granted.

The Commissioner is authorized to charge any additional fees due by way of this Application, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC

Robert Iannucci
Registration No. 33,514

RXI:lmt

Enclosures:

Check for $200.00

Copy of Determination of Patent Term Extension under 35 U.S.C. 154(b) as provided with Notice of Allowance

Copy of relevant portions of USPTO Notice of September 18, 2000

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

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Paul F. Neils
Sughrue Mion
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of STERNHAMN U.S. Application No.: 09/700,121 PCT No.: PCT/SE99/00792 Int. Filing Date: 11 May 1999 Priority Date: 14 May 1998 Attorney Docket No.: Q61599 For: PALLET AND METHOD OF MANUFACTURING THE PALLET	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For Withdrawal of Holding of Abandonment" filed 24 October 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fees are required.

BACKGROUND

On 11 May 1999, applicant filed international application PCT/SE99/00792, which claimed priority of an earlier application filed 14 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 November 2000.

On 09 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an executed Declaration and Power of Attorney and a small entity statement.

On 08 January 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. in addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended

with a proper petition and payment of fees.

On 05 February 2001, applicant responded with a copy of the previously filed declaration and power of attorney, as well as, a stamped postcard receipt from the USPTO.

On 16 October 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 January 2001 within the time period set therein and that above-identified application was abandoned as to the United States.

On 24 October 2003, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file finds the original, executed declaration and power of attorney contained therein. It is clear from the "529 Rec'd PCT/PTO 09 NOV 2000" stamp that the document was filed with the USPTO on 09 November 2000. Thus, it is proper to grant applicant's petition to withdraw the holding of abandonment in the present application. It is noted that as to the question of applicant's response to the Form PCT/DO/EO/905 mailed 08 January 2001 in addition to the evidence provided by applicant, the original papers filed 05 February 2001 are also found in the application file.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 09 November 2000.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) mailed 08 January 2001 is hereby VACATED.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 16 October 2003 is hereby VACATED.

This application will be given an international application filing date of 11 May 1999 and a date of 09 November 2000 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).This application is being returned to the DO/EO/US for processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

12 FEB 2004

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PATENT & TRADEMARK OFFICE

DOCKETED
FEB 13 2004

Paul F. Neils
Sughrue Mion
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of
STERNHAMN
U.S. Application No.: 09/700,121
PCT No.: PCT/SE99/00792
Int. Filing Date: 11 May 1999
Priority Date: 14 May 1998
Attorney Docket No.: Q61599
For: PALLET AND METHOD OF MANUFACTURING THE PALLET

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For Withdrawal of Holding of Abandonment" filed 24 October 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fees are required.

BACKGROUND

On 11 May 1999, applicant filed international application PCT/SE99/00792, which claimed priority of an earlier application filed 14 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 November 2000.

On 09 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an executed Declaration and Power of Attorney and a small entity statement.

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with a proper petition and payment of fees.

On 05 February 2001, applicant responded with a copy of the previously filed declaration and power of attorney, as well as, a stamped postcard receipt from the USPTO.

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On 24 October 2003, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file finds the original, executed declaration and power of attorney contained therein. It is clear from the "529 Rec'd PCT/PTO 09 NOV 2000" stamp that the document was filed with the USPTO on 09 November 2000. Thus, it is proper to grant applicant's petition to withdraw the holding of abandonment in the present application. It is noted that as to the question of applicant's response to the Form PCT/DO/EO/905 mailed 08 January 2001 in addition to the evidence provided by applicant, the original papers filed 05 February 2001 are also found in the application file.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 09 November 2000.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) mailed 08 January 2001 is hereby VACATED.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 16 October 2003 is hereby VACATED.

This application will be given an international application filing date of 11 May 1999 and a date of 09 November 2000 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).This application is being returned to the DO/EO/US for processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

104

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

12 FEB 2004

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OIPE JC68
MAY 14 2004
PATENT & TRADEMARK OFFICE

DOCKETED
FEB 13 2004

Paul F. Neils
Sughrue Mion
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of
STERNHAMN
U.S. Application No.: 09/700,121
PCT No.: PCT/SE99/00792
Int. Filing Date: 11 May 1999
Priority Date: 14 May 1998
Attorney Docket No.: Q61599
For: PALLET AND METHOD OF MANUFACTURING THE PALLET

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For Withdrawal of Holding of Abandonment" filed 24 October 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fees are required.

BACKGROUND

On 11 May 1999, applicant filed international application PCT/SE99/00792, which claimed priority of an earlier application filed 14 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 November 2000.

On 09 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an executed Declaration and Power of Attorney and a small entity statement.

On 08 January 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. in addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended

with a proper petition and payment of fees.

On 05 February 2001, applicant responded with a copy of the previously filed declaration and power of attorney, as well as, a stamped postcard receipt from the USPTO.

On 16 October 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 January 2001 within the time period set therein and that above-identified application was abandoned as to the United States.

On 24 October 2003, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file finds the original, executed declaration and power of attorney contained therein. It is clear from the "529 Rec'd PCT/PTO 09 NOV 2000" stamp that the document was filed with the USPTO on 09 November 2000. Thus, it is proper to grant applicant's petition to withdraw the holding of abandonment in the present application. It is noted that as to the question of applicant's response to the Form PCT/DO/EO/905 mailed 08 January 2001 in addition to the evidence provided by applicant, the original papers filed 05 February 2001 are also found in the application file.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 09 November 2000.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) mailed 08 January 2001 is hereby VACATED.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 16 October 2003 is hereby VACATED.

This application will be given an international application filing date of 11 May 1999 and a date of 09 November 2000 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).This application is being returned to the DO/EO/US for processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JEFFREY J. HOHENSHELL
MEDTRONIC INC
710 MEDTRONIC PARKWAY
MINNEAPOLIS, MN 55432

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Gregory H. Lambrecht et al	:	
Application No. 09/700,167	:	NOTICE
Filed: November 9, 2000	:	
Attorney Docket No. VIA-3.01	:	

This is in response to the petition under 37 CFR 1.183 or in the alternative, petition under 37 CFR 1.137(b), filed April 26, 2005, which is being treated as a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The Revocation of Power of Attorney... filed April 26, 2005 is entered and made of record. Copies are attached.

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/04/09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 09700179 Patent No.: 7070969 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

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: Please enter the renumber of figures.
Please DONOT enter the rest.
Thanks

Cecilia Tsang 1654

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FEB 23 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington DC 20037-32021

Paper No. 17

In re Application of
Georg Siegl
Application No. 09/700,258
Filed: November 13, 2000
For: PRESENTATION DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The paper filed July 30, 2003 has been treated as a Petition to Withdraw the Holding of Abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
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 July 30, 2003 is timely and has been matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

Randolph A. Reese

cps/2/19/04

Randolph A. Reese
Special Programs Examiner
Group 3600

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Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington DC 20037-3202

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Siegl	:	
Application No. 09/700,258	:	Corrected Letter Regarding
International Filing Date: May 11, 1999	:	Patent Term Extension
Docket No. Q61663	:	
For: PRESENTATION DEVICE	:	

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on November 17, 2005, which incorrectly states the patent term is extended by 416 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)[1] and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on December 30, 2002. On September 21, 2004, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on December 30, 2002, the date that the Notice of Appeal was filed, and ending on September 21, 2004, the date of the final decision in favor of the applicant. Three years after the international filing date of the application is May 11, 2002. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of

[1]35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

extension is **632 days**, not 416 days, as printed on the Notice of Allowance, which is the period from December 30, 2002 to September 21, 2004, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **632 days**.

Further correspondence with respect to this matter should be addressed as follows:

By fax: Attn: Patent Term Extension Reply
(571) 273-8300

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

14

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,367	11/15/2000	Rainer Karer	0775/000003	6131

26474 7590 06/26/2007
NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

EXAMINER
HANDAL, KAITY V

ART UNIT	PAPER NUMBER
1764	

MAIL DATE	DELIVERY MODE
06/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/700,367			

EXAMINER

ART UNIT	PAPER

20070606

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Applicant's request under 37 CFR 1.181 filed on 11/8/06 to withdraw the finality of the office action filed 9/29/07 is convincing. Pursuant to this request, prosecution on the merits will be reopened and the application returned to pending status. The amendments to claims filed 12/05/06 will be entered and considered in the next office action which is forthcoming.

Glenn Caldarola
Supervisory Patent Examiner
Technology Center 1700

GAC

OCT 1 5 200

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United States Patent and Trademark Office
Washington, D.C. 20231
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COWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, D.C. 20044-4300

In re Application of Christof CALLSEN et al Application No.: 09/700,371 PCT No.: PCT/EP99/02990 Int. Filing Date: 03 May 1999 Priority Date: 15 May 1998 Attorney's Docket No.: 225/49317 For: EXPANSION LANCE ASSEMBLY	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is responsive to applicants' "TO REINSTATE APPLICATION ABANDONED DUE TO PTO ERROR" filed 20 August 2001, which is being treated as a petition under 37 CFR 1.181 requesting the acceptance of the executed declaration and power of attorney form, and the withdrawal of the notice of abandonment mailed on 06 August 2001.

BACKGROUND

On 03 May 1999, applicants filed international application PCT/EP99/02990, which claimed priority of an earlier European application filed 15 May 1998. A copy of the international application was transmitted on 25 November 1999 to the USPTO from the International Bureau. A DEMAND was timely filed on 24 August 1999 electing the United States. Accordingly, the thirty (30) month time period for paying the basic national fee in the United States of America expired at midnight on 15 November 2000.

On 15 November 2000, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee, and an English translation of the international application. No oath or declaration of the inventors accompanied the transmittal letter.

On 14 December 2000, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within one month from its 14 December 2000 date of mailing or by 31 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 06 August 2001, a Notification of Abandonment was mailed to applicant's representative. It stated that the applicant has failed to properly respond to the Notification of Missing Requirements (Form PCT/DO/EO/905), mailed 14 December 2000 within the time period set therein. See the attached Notification of a Defective Response (Form PCT/DO/EO/916).

On 20 August 2001, applicants filed the instant petition accompanied, inter alia, with an executed declaration, power of attorney, and assignment form.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that "the showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. **A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement**."

A review of the petition reveals that petitioner has not compiled with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Petitioner's statements on page 2 of the above application by itself is insufficient to establish failure to receive the Office communication without any corroborating evidence , e.g., a log showing the mailed received during the time period the office communication would have been received or a tickler sheet for 14 January 2001. In other words, to establish a showing nonreceipt of the Notification of Missing Requirements would require, at a minimum, a copy of docket within the time period that the Office action would have been received or a copy of the docket report showing all replies docketed for a date of one month from the mail date of the nonreceived Office action.

Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

FEB 1 5 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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COWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, D.C. 20044-4300

In re Application of	:	
Christof CALLSEN et al	:	DECISION ON
Application No.: 09/700,371	:	
PCT No.: PCT/EP99/02990	:	RENEWED PETITION
Int. Filing Date: 03 May 1999	:	
Priority Date: 15 May 1998	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 225/49317	:	
For: EXPANSION LANCE ASSEMBLY	:	

This decision is responsive to applicants' "RENEWED PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181(a)(3)" filed 06 November 2001.

BACKGROUND

In a decision from this Office on 15 October 2000, the petition filed on 20 August 2001 was dismissed. The decision stated that petitioner had not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

On 20 August 2001, applicants filed a renewed petition, accompanied with a photocopy of the docket report for January 14, 2001.

DISCUSSION

A review of the January 14, 2001 docket report showing all replies docketed for a date of one month from the 14 December 2000 mail date of the Notification and this shows that the Notification was not received by applicants' representative. Accordingly, this showing overcomes the presumption that applicants did receive the Notification, and withdrawal of abandonment of the above application is appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** without prejudice.

The NOTIFICATION OF ABANDONMENT, mailed 06 August 2001 is **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **20 August 2001**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

JC17 Rec'd PCT/PTO 12 APR 2001

PCT

#3

OIPE JC174
APR 12 2001
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Daikichi FUKUSHIMA

Appln. No.: 09/700,397

Confirmation No.: Not Yet Assigned

Group Art Unit: Not Yet Assigned

Filed: November 14, 2000

Examiner: Not Yet Assigned

For: NOVEL POLYPEPTIDE, cDNA ENCODING THE SAME, AND USE OF THEM

RESPONSE TO NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This response is in regard to the Notification to Comply, mailed March 30, 2001, issued in the above referenced patent application. A copy of that Notification is attached. The Notification to Comply was mailed March 30, 2001, and stated that the time period for reply was set forth in the accompanying Notification of Missing Requirements under 35 U.S.C. §371. However, no time period for reply was indicated anywhere on the Notification of Missing Requirements. In any event, this reply is being filed before April 30, 2001, less than 30 days after the mail date of the Notification to Comply, and is therefore timely.

In the Notification to Comply, it is stated that the computer readable form (CFR) of the Sequence Listing is missing from the papers submitted by Applicants on January 5, 2001.

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APR 1 2 2001
PATENT & TRADEMARK OFFICE

In response, Applicants assert that the computer readable form of the Sequence Listing was submitted on January 5, 2001, along with a Statement to Support Filing and Submission in Accordance with 37 C.F.R. §§1.821-1.825, a paper copy of the Sequence Listing, and a Preliminary Amendment. Thus, the filing of January 5, 2001, was complete in all respects under 37 C.F.R. §§1.821-1.825. Applicants enclose herewith a stamped copy of the filing receipt as proof of the completeness of the January 5, 2001, filing.

However, because the computer readable form of the Sequence Listing appears to have been misplaced by the U.S. PTO, Applicants enclose herewith a copy of the computer readable form of the Sequence Listing, and a Statement to Support Filing and Submission in Accordance with 37 C.F.R. §§1.821-1.825 stating that the copy of the Sequence Listing on the diskette is the same as both the paper and computer readable form of the Sequence Listing filed January 5, 2001.

Because the filing of January 5, 2001, was in full compliance with 37 C.F.R. §§1.821-1.825, Applicants respectfully request that the Office accord the present application a date of January 5, 2001, by which all requirements under 37 C.F.R. §§1.821-1.825 had been meet.

Respectfully submitted,

Drew Hissong
Registration No. 44,765

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Date: April 12, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
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APR 1 2 2001

U.S. APPLICATION NO	FIRST NAMED APPLICANT		ATTY DOCKET NO
09/700397	FUKUSHIMA	D	Q61459

INTERNATIONAL APPLICATION NO
PCT/JP99/02485

I.A. FILING DATE	PRIORITY DATE
13 MAY 99	14 MAY 98

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037 3213

30 MAR 2001
DATE MAILED

NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant has submitted papers under 35 U.S.C. 371 to enter the national stage in the United States of America. The items indicated below, however, are missing. The period within which to correct the deficiency noted below and avoid abandonment is set forth in the accompanying Notification.

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):

- ☐ The application fails to comply with the requirements of 37 CFR 1.821-1.825.
- ☐ This application does not contain, a "Sequence Listing" as a separate part of the disclosure on paper copy or compact disc, as required by 37 CFR 1.821(c).
- ☐ A copy of the "Sequence Listing" in computer readable format has not been submitted as required by 37 CFR 1.821(e).
- ☐ A copy of the "Sequence Listing" in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."
- ☐ The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
- ☐ The paper copy or compact disc of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).
- ☐ Other:_____

APPLICANT MUST PROVIDE:

- ☒ An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- ☐ An initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification.
- ☐ A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

FOR QUESTIONS REGARDING COMPLIANCE WITH THESE REQUIREMENTS, PLEASE CALL:

(703) 308-4216, for Rules interpretation,
(703) 308-4212, for CRF submission help,
(703) 287-0200, for PatentIn software help.

Barbara A. Campbell
Telephone: 703-305-3631

FORM PCT/DO/EO/920 (March 2001)

FM1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
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U.S. APPLICATION NO	FIRST NAMED APPLICANT		ATTY DOCKET NO
09/700397	FUKUSHIMA	D	Q61459

INTERNATIONAL APPLICATION NO
PCT/JP99/02485

I.A. FILING DATE	PRIORITY DATE
13 MAY 99	14 MAY 98

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037 3213

DATE MAILED 30 MAR 2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☐ an Elected Office (37 CFR 1.495):

- ☐ U.S. Basic National Fee.
- ☐ Copy of the international application.
- ☐ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments.
- ☐ Priority Document.
- ☐ Indication of Small Entity Status.
- ☐ Translation of the international application into English.
- ☐ Translation of Article 19 amendments into English.
- ☐ Other:
- ☐ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.

2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee.
- ☐ Copy of the international application.

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☐ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes MUST be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875 ☒ PCT/DO/EO/920

Barbara A. Campbell
Telephone: 703-305-3631

FORM PCT/DO/EO/905 (March 2001)

22

OIPE JC174
APR 1 2 2001
PATENT & TRADEMARK OFFICE

FILING RECEIPT
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of

Daikichi FUKUSHIMA, et al.

Appln. No. 09/700,397 Group Art Unit: Not Yet Assigned

Filed: November 14, 2000 Examiner: Not Yet Assigned

For: NOVEL POLYPEPTIDES, cDNA ENCODING THE SAME, AND USE OF THEM

PAPER(S) FILED ENTITLED:

1. PRELIMINARY AMENDMENT
2. STATEMENT TO SUPPORT FILING AND SUBMISSION IN ACCORDANCE WITH 37 C.F.R. §§ 1.821-1.825
3. substitute SEQUENCE LISTING
4. SEQUENCE LISTING IN COMPUTER READABLE FORMAT

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

OIPE JC68
JAN 0 5 2001
PATENT & TRADEMARK OFFICE

DOCKET NO.: Q61459
ATTORNEY/SEC: MXB/MAH

Date Filed: January 5, 2001

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 9/700417

Paper No.: ____

DATE : 7/26/05

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction on Patent No.: 6890709 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

SPE

1643
Art Unit

JUN 0 6 2001

#4

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WASHINGTON, D.C. 20231
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JOSEPH A. TESSARI
E. I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
1007 MARKET STREET
WILMINGTON, DE 19898

In re Application of HONIG et al. Serial No.: 09/700,443 PCT No.: PCT/EP99/02947 Int. Filing Date: 30 April 1999 Priority Date: 08 May 1998 Attorney's Docket No.: FA-0973 For: ELECTRO-DIPCOATING BATHS WITH ADDITIVES PREVENTING THE FORMATION OF CRATERS IN THE BAKED COATING	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to "PETITION UNDER 37 CFR§1.10(d) or In The Alternative, under 37 CFR §1.137 (b)" filed 19 January 2001 requesting that the above-identified application be accorded a filing date for national stage papers of 08 November 2000, the date petitioner avers that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10.

BACKGROUND

On 30 April 1999, applicant filed international application No. PCT/EP99/02947, which claimed a priority date of 08 May 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 November 1999.

On 30 November 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 08 November 2000.

Applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, a copy of the international application, a small entity statement and the basic national fee, which the United States Designated/Elected Office (DO/EO/US) accorded a filing date of 09 November 2000.

A review of the application file reveals that the original Express Mail label indicates a "Date-In" of "11/09/00". The original application papers were date stamped as received by the United States Patent and Trademark Office (USPTO) on 09 November 2000.

On 07 December 2000, a Notification of Abandonment was mailed to applicants

indicating that applicant had failed to provide the U.S. Basic National Fee by 30 month deadline and that the application was abandoned as to the U.S.

DISCUSSION

37 CFR 1.10(d)

Petitioner has submitted a copy of the "Express Mail" customer receipt bearing the same "Express Mail" mailing number as identified on the transmittal letter that accompanied the application papers. The addressee's copy of the "Express Mail" mailing label No. "EL031052691US" located in the application file also bears the entry in the "Date-In"box on the label of 09 November 2000. The addressee copy in the application file bears a PTO Mail Center date stamp of "Nov 09 2000". However, the showing that the original papers were, in fact, deposited as "Express Mail" with the United States Postal Service (USPS) on 08 November 2000 is insufficient to overcome the USPS evidence.

37 CFR 1.10(d) provides relief in the instance where the USPS has omitted from the "Express Mail" mailing label the "date-in" date. Specifically, 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (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 showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

Petitioner has satisfied item (1) above as the petition is considered promptly filed. Item (2) above is satisfied since the number of the "Express Mail" mailing label "EL031052691US" was placed the transmittal letter prior to the original mailing by "Express Mail".

However, with regard item (3), the customer copy of the Express Mail label shows a "Date-In" of "11/9/00". The post card receipt indicates 09 November 2000. When papers are filed via Express Mail, the USPTO stamps the *date of deposit* as the date of receipt. See 37 CFR 1.10.

Applicant's submission of a daily log sheet for 08 November 2000 provides the attorney docket number (FA-0973), application number (EP99/02947), document title (National), attorney initials (JAT), fee ($1210) and a checkmark in the box marked "Mail". Counsel's statement indicates that he maintains daily logs used to record all outgoing mail to the USPTO on any

given day. Counsel does not state that the log is created "within one day after the deposit of the correspondence as 'Express Mail'". *See* MPEP 513, p.500-47 (Rev.1, Feb 2000). Furthermore, the daily log submitted does not contain: (1) the "Express Mail" number; (2)the place, date and time of deposit; (3) the time of the last scheduled pick-up for that date and place of deposit; (4) the depositor's initials or signature; and (5)the date and time of entry in the log. *Id.* Nor does applicant provide the Corporate Account Mailing Statement as evidence of the date of deposit. Therefore the evidence provided is insufficient to establish that the correspondence was deposited with the USPS on 08 November 2000.

Accordingly, it is inappropriate, on the present record, to accord the application a corrected filing date of 08 November 2000.

Furthermore, in compliance with 37 CFR 1.495(b), an international application becomes abandoned if the copy of the international application or the basic national fee has not been received by the U.S. Designated Office prior to the expiration of 30 months from the priority date or in this case, by 08 November 2000. The time for payment of the basic national fee is not extendable. See MPEP §1893.01(b)(1). Thus, the application is abandoned as to entry into national stage in the United States.

37 CFR 1.137(b)

Applicant requests that, in the alternative to the petition under 37 CFR 1.10(d), the petition be construed as a petition to revive under 37 CFR 1.137(b). The petition to revive under 37 CFR 1.137(b) filed 19 January 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statements that "any abandonment of the application was unintentional" and that "[t]he delay between the receipt of the Notification of Abandonment on December 14, 2000 and the filing of this petition, in addition to the intervening holidays, was occasioned by the need to review the facts, identify and collect the necessary evidence and prepare this petition" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that applicant has authorized payment of the required petition fee of $1240 from his deposit account and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

Applicant's petition under 37 CFR 1.10(d), requesting that the national stage application papers be accorded a filing date of 08 November 2000 is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled " Renewed Petition Under 37 CFR 1.10." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the U.S. Designated Office for further processing including issuance of the Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Richard R. Cole
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/RRC:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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Paper No.

NEEDLE & ROSENBERG, P.C.
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999 PEACHTREE STREET
ATLANTA GA 30309-3915

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Willima S. Argraves et al
Application No. 09/700,455
Filed: February 1, 2001
Attorney Docket No. 19113.0071U1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 5, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/085,556, filed May 15, 1998.

The petition is **Granted.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 1, 2001. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/085,556 is granted.

The granting of the petition to accept the delayed benefit claim to the prior application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under

35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center AU 1647 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/085,556, filed May 15, 1998.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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)
6673276	2004-01-06	09700480	2001-01-26	ACD2639P1US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-10-07
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6673276
Issue Date: January 6,2004
Application No. 09700480
Filed: January 26,2001
Attorney Docket No. ACD2639P1US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 7,2008 ,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 7,2008 . 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
WASHINGTON, D.C. 20231
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Paper No. 13

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

COPY MAILED

MAY 17 2002

OFFICE OF PETITIONS

In re Application of :
Kazuyoshi Ichihara, et al. :
Application No. 09/700,494 :
Filed: November 16, 2000 :
Attorney Docket No. P06939US00/BAS :

ON PETITION

This is a decision on the petition, filed May 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 March 29, 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]

The application is being forwarded to Technology Center AU 1623 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

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[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balanc due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

Date : May 16, 2002

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : KAZUYOSHI ICHIHARA, et al.
Application No. : 09/700,494
Filed : November 16, 2000

The above-identified application has been assigned Patent No. 6,395,929 and an issue date of May 28, 2002.

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 May 28, 2002:

"All reference to Patent No. 6,395,929 to KAZUYOSHI ICHIHARA, ET AL. of JAPAN for PROCESS FOR PRODUCING FLUOROALKYLCARBOXYLIC ACID appearing in the Official Gazette of May 28, 2002, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: SEP 1 2004

BC
Paper Number:

In re application of
Simon Scullion et al.
Serial No. 09/700,512
Filed: November 13, 2000
For: A BEVERAGE

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT filed April 8, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 23, 2004, for failure to timely file a proper reply to the Office letter of December 10, 2002 be withdrawn based on the oral agreement in an interview conducted on January 6, 2003 between the examiner and Applicants' attorney that included a fully responsive election to the August 27, 2002 restriction requirement.

The facts presented in the present Petition are summarized below:

I. On August 27, 2002, an Office restriction requirement was mailed by the USPTO.

II. On September 27, 2002, an election response was submitted by the Applicants, wherein Group I was elected.

III. On December 10, 2002, an Office letter was mailed by the PTO that held the election response of September 27, 2002 to be non-responsive due to failure to additionally elect specie within Group I. This Office communication set forth a one-month period for response.

IV. On January 6, 2003, before the expiration of the one month time period to respond to the December 10, 2002 Office letter, Applicants' attorney initiated a telephonic interview with the examiner to discuss the December 10, 2002 Office letter. The Petition alleges that the examiner agreed to issue an Interview Summary that included a fully responsive election to the August 27, 2002 restriction requirement, and that no further written submission was necessary.

V. On June 6, 2003, before the expiration of the final six month time period to respond to the December 10, 2002 Office letter, Applicants' attorney initiated a second telephonic interview with the examiner to discuss the December 10, 2002 Office letter. The Petition alleges that the examiner again indicated that he would issue an Interview Summary that included a fully responsive election to the August 27, 2002 restriction requirement, and that no further written submission was necessary.

VI. On March 23, 2004, a Notice of Abandonment was mailed to the Applicant. The Notice of Abandonment stated that the application was abandoned because "the response was by telephone, rather than in writing, as required, the response was improper."

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. This Decision addresses the situation as to whether the oral election on January 6, 2003, in response to the December 10, 2002 Office letter, was sufficient to establish that the reason for holding the September 27, 2002 response to restriction requirement not fully responsive was a proper reply in this particular application. The December 10, 2002 Office communication set forth a time

period of one month or thirty days (whichever is longer) for the Applicants "to supply the omission or correction in order to avoid abandonment."

As set forth in 37 CFR 1.2, "[a]ll business with the Patent and Trademark Office should be transacted in writing...The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." However, as stated in MPEP 713.04, "[t]he action of the USPTO cannot be based exclusively on the written record in the Office if that record is itself incomplete through failure to record the substance of interviews." Moreover, MPEP 713.04, states that it is both the responsibility of: (A) the applicants or the attorney to timely make the substance of an interview of record in the application file; and (B) the examiner to complete an Interview Summary form PTOL-413 of record in each interview where a matter of substance has been discussed.

In the present application, while both the applicants' attorney and examiner erred in not timely making the substance of the interview of January 6, 2003 of record in the official application record, there does not appear to be any doubt as to whether there was a telephonic interview conducted on January 6, 2003 that resulted in a fully responsive election to the August 27, 2002 restriction requirement, as is evidenced by the examiner's reason for the holding of abandonment. Accordingly, 37 CFR 1.2 permits the PTO to treat the non-written agreement or promise as fulfilling the December 10, 2002 Office communication's requirement "to supply the omission or correction in order to avoid abandonment." This Decision herein instructs the examiner to do such, in addition to completing an Interview Summary form PTOL-413 that sets forth the substance of the January 6, 2003 applicant initiated interview.

The Petition is **GRANTED**.

The application shall be forwarded to the examiner for prompt completion of an Interview Summary form PTOL-413 that sets forth the substance of the January 6, 2003 interview. Thereafter, the application will be forwarded to the examiner for processing and an Office action on the merits shall follow in due course.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul A. Ragusa
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112

MAY 0 2 2001
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WASHINGTON, D.C. 20231
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Clarence A. Green
Perman & Green, LLP
425 post Road
Fairfield, CT 06430

In re Application of	:	
Gambini et al.	:	
Application No. 09/700536	:	DECISION ON
PCT No.: PCT/US99/11088	:	
Priority Date: 17 May 1999	:	PAPERS UNDER
Int. Filing Date: 16 May 1998	:	
For: Instrument for Monitoring	:	37 CFR 1.42
Polymerase Chain Reaction	:	
of DNA	:	

This is a decision on the papers filed on 15 November 2000, which are being considered under 37 CFR 1.42.

BACKGROUND

This international application was filed on 17 May 1999, and claimed an earliest priority date of 16 May 1998. A Demand electing the United States was filed on 15 December 1999, which was prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired as of midnight on 16 November 2000.

On 15 November 2000, applicants filed a Transmittal Letter for entry into the national stage in the United States. The Transmittal Letter was accompanied by, *inter alia*, the required basic national fee, a "Fiduciary's probate Certificate" and a declaration of the inventors signed by Susan Atwood-Stone on behalf of deceased inventor John Atwood.

DISCUSSION

The declaration filed on 15 November 2000 is not in compliance with 37 CFR 1.42 because it is not clear from the evidence of record that Susan Atwood-Stone is empowered to act alone in representing the estate of deceased inventor John Atwood. Rather, the Fiduciary's probate Certificate names Judith Atwood and Susan Atwood-

Stone as "Co-Executors," which implies that the signatures of both are required. Moreover, the declaration is also deficient in that it does not identify the last residence, post office address and citizenship of John Atwood. Accordingly, it would be inappropriate to accord the application status under 37 CFR 1.42 on the basis of the present record.

CONCLUSION

The request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

SEP 2 8 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Clarence A. Green
Perman & Green, LLP
425 post Road
Fairfield, CT 06430

In re Application of Gambini et al. Application No. 09/700536 PCT No.: PCT/US99/11088 Priority Date: 17 May 1999 Int. Filing Date: 16 May 1998 For: Instrument for Monitoring Polymerase Chain Reaction of DNA	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a decision on the "Renewed Request Under 37 CFR 1.42" filed on 10 August 2001.

The renewed request is accompanied by a declaration of the inventors signed on behalf of deceased joint inventor John Atwood by both Judith Atwood and Susan Atwood-Stone in their capacity as co-executrix of his estate. However, the declaration is deficient in that it still does not identify the citizenship of John Atwood. It is noted that applicants have pointed to the first page of the international application for an indication of Mr. Atwood's citizenship. However, 37 CFR 1.497 requires that such indication appear on the declaration itself. Accordingly, it would be inappropriate to accord the application status under 37 CFR 1.42 on the basis of the present record.

The request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

MAR 2 8 [illegible]

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Clarence A. Green
Perman & Green, LLP
425 post Road
Fairfield, CT 06430

In re Application of
Gambini et al.
Application No. 09/700536
PCT No.: PCT/US99/11088
Priority Date: 17 May 1999
Int. Filing Date: 16 May 1998
For: Instrument for Monitoring Polymerase Chain Reaction of DNA

DECISION ON

PAPERS UNDER

37 CFR 1.42

This is a decision on the "Renewed Request Under 37 CFR 1.42 (Second)" filed on 29 November 2001.

The previous renewed request was dismissed without prejudice because the declaration did not identify the citizenship of deceased co-inventor John Atwood.

The instant renewed request is accompanied by a newly-executed declaration which does identify the citizenship of John Atwood. As such, the requirements of 37 CFR 1.42 have now been satisfied.

The request is **GRANTED**.

Counsel's Deposit Account No. 16-1350 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter filed on 15 November 2000.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The date of this application under 35 U.S.C. 371 is **29 November 2001**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

Testa Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

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APR 1 7 2003

OFFICE OF PETITIONS

In re Patent No. 6,503,162	:	
Issue Date: January 7, 2003	:	
Application No. 09/700,615	:	ON PETITION
Filed: November 17, 2000	:	
Attorney Docket No. ADI-072	:	

This is a decision on the petition filed April 7, 2003, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 306-3475. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Certificate

APR 1 8 2003

of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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TAKEDA PHARMACEUTICALS NORTH AMERICA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
475 HALF DAY ROAD, SUITE 500
LINCOLNSHIRE, IL 60069

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:
Hirokazu Matsumoto et al	:
Application No. 09/700,643	: DECISION ON PETITION
Filed: February 2, 2001	: UNDER 37 CFR 1.313(c)
Attorney Docket No. 2523USOP	:

This is a decision on the petition, filed September 14, 2005, which is being treated as a petition 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 request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Rec'd PCT/PTO 14 MAY 2003

Docket No: 198928US3PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION: Claude MORIN et al.

SERIAL NUMBER: 09/700,684

FILED: January 12, 2001

FOR: ELECTROCHEMICAL DEVICE, SUCH AS AN ELECTRICALLY CONTROLLED SYSTEM WITH VARIABLE OPTICAL AND/OR ENERGY PROPERTIES

PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE

Assistant Commissioner for Patents
Washington, D.C. 20231

The U.S. PCT Receiving Branch is requested to provide a corrected Notification of Acceptance under 35 USC 371 for the following reasons:

The Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements is incorrect.

A copy of our date-stamped filing receipt(s) is attached as evidence of the correct date(s).

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Surinder Sachar

Norman F. Oblon
Attorney for Applicant
Reg. No. 24,618
Surinder Sachar
Reg. No. 34,423

(703) 413-3000

O.S.&M. File No. 198928US0PCT By NFO/cs FF

Due date 01/15/01

Serial No. 09/700,684

In the Matter of the Application of Claude MORIN, et al.

For ELECTROCHEMICAL DEVICE, SUCH AS AN ELECTRICALLY CONTROLLED SYSTEM WITH VARIABLE OPTICAL AND/OR ENERGY PROPERTIES

The following has been received in the U.S. Patent Office on the date stamped hereon:

[ ] __ pgs. Specification, __Claims (English Translation)

[➤] Response to Notice of Missing Requirement Under 35 U.S.C. 371

[➤] Combined Declaration, Petition & Power of Attorney (4 pages)

[➤] Copy of Notification of Missing Requirements

[ ] Preliminary Amendment

[ ] Petition for Extension of Time

[ ] Check for $_____; [➤] Dep. Acct. Order Form

[ ] Verified Statement (Declaration) Claiming Small Entity Status

[ ] Submission of Verified Statement (Dec.) Claiming Small Entity Status

[ ] Declaration of _____

[ ] Letter Requesting Approval of Drawing Changes

[ ] Drawings ___ sheets

[ ] List of Related Cases

[ ] Information Disclosure Statement; [ ] PTO-1449

[ ] Cited References ( )

[ ] _____ Search Report

[ ] Statement of Relevancy

DATE RECEIVED ~~60 Rec'd PCT/PTO 12 JAN 2001~~

60 Rec'd PCT/PTO 12 JAN 2001

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APR 14 2004

#17

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:
Laurent Benbadis et al	:
Serial No.: 09/700,687	: PETITION DECISION
Filed: February 14, 2001	:
Attorney Docket No.: 033339/206076	:

This is in response to the petition under 37 CFR 1.181, filed March 3, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on April 22, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed February 20, 2004. Applicants state that a reply was submitted on August 18, 2003, including a request and fee for a one month extension of time. Applicants provide evidence that the Office received the reply in the form of an Office date stamped return postcard. The original reply has not been located and the copy filed with the petition will be utilized in lieu thereof. In view of applicants' timely reply the Notice of Abandonment is withdrawn and the application 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 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/06

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/700697** Patent No.: **7010314**

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. 173

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: _____

EDAN . ORGAD
SUPERVISORY PATENT EXAMINER

SPE — 2619 **Art Unit**

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0380-P023 2849

In re Application of
David Mark Whitcombe, et al
Serial No. 09/700,732
Filed : 3/19/2001
For: NUCLIC ACID SEQUENCE IDENTIFICATION

NOTICE OF WITHDRAWAL FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to Prior Art. 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 Gary Benzion at (571) 272-0782.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHI, PA 19103-2307

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WASHINGTON, D.C. 20231
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AUG 17 2001

George A. Havanec, Jr.
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, Virginia 22313-1404

In re Application of	:	
JIRSAK, et al.	:	
U.S. Application No.: 09/700,743	:	
PCT No.: PCT/CZ98/00025	:	DECISION
Int. Filing Date: 25 May 1998	:	
Priority Date: 25 May 1998	:	
Attorney Docket No.: 006895-010	:	
For: A DEVICE FOR PERPENDICULAR STRATIFICATION OF PLANARY FIBROUS SHAPES	:	

This application is before the PCT Legal Office for consideration of issues arising under 37 CFR 371.

BACKGROUND

On 25 May 1998, applicant filed international application PCT/CZ98/00025. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 October 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 25 November 2000.

On 03 November 2000, a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" was filed for this international application by counsel from the firm of Kilpatrick Stockton, LLP. A power of attorney was not filed. This submission was assigned application number 09/674,697.

On 20 November 1998, a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" was filed for this international application by counsel from the firm of Burns, Doane, Swecker & Mathis, LLP. An oath or declaration and power of attorney accompanied the transmittal, along with, *inter alia*, the basic national fee, a copy of the international application, a first preliminary amendment, an assignment for recording, a copy of the International Preliminary Examination Report and a copy

of the International Search Report. This submission was assigned application number 09/700,743.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage have been submitted for international application number PCT/CZ98/00025 (United States application numbers 09/674,697 and 09/700,743). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

As noted above, the documents filed in 09/700,743 include a declaration executed by the inventors. This declaration includes appointment of counsel. The documents filed in application number 09/674,697 do not include a declaration nor a power of attorney. Accordingly application number 09/700,743 will be treated as the United States national stage application for international application PCT/CZ98/00025.

CONCLUSION

This application is being forwarded to the National Stage Processing Division for further processing in accordance with this decision, namely, 1) Transferring the papers filed on 03 November 2000 in application number 09/674,697 to the present file, 2) Crediting all fees paid in application number 09/674,697 to Deposit Account No. 11-0855 and 3) Preparation and mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) if applicable.

Richard Cole
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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AUG 17 2001

Larry A. Roberts, Esq.
KILPATRICK STOCKTON, LLP
2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, Georgia, 30326

Dear Mr. Roberts:

On 03 November 2000, you filed in the United States Patent and Trademark Office (USPTO) papers requesting entry into the national phase of international application PCT/CZ98/00025, filed 25 May 1998, entitled A DEVICE FOR PERPENDICULAR STRATIFICATION OF PLANARY FIBROUS SHAPES. The inventors are indicated as Oldrich JIRSAK, Jaroslav HANUS, Vaclav KOTEK, Filip SANETRNIK and Radko KRCMA. Your attorney docket number is 19394-0100.

The inventors have filed separate papers requesting entry into the national phase of international application PCT/CZ98/00025 and have appointed lawyers from another firm to represent them before the USPTO. The papers that you filed on 03 November 2000 have been placed in the national stage application filed by the applicants. Since applicants have separate appointed attorneys, no further communications with respect to this application will be mailed to you.

The $1,130 in fees which you submitted with your 03 November 2000 filing will be credited to your Deposit Account No. 11-0855.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Derek A. Putonen
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

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

Pet. Dec.

rld

Mailed: 5/19/05

In re application of Zimmer, Joachim Serial No. 09/700,873 Filed: February 1, 2001 For: Windscreen wiper	:	DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT filed August 19, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 12, 2004, for failure to timely file a proper reply to the Office letter mailed on December 16, 2003 be withdrawn. The requester asserts that a timely response was filed on June 3, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response was properly filed on June 3, 2004 in view of the fact that the originally filed papers have been located in the USPTO application file. Accordingly, applicant's reply in the form of a three month extension of time, a Request for Continued Examination and request for entry of the after final amendment filed March 15, 2004, has been entered, any holding of abandonment is hereby vacated, and the application has been returned to pending status. The application shall be returned to the LIE for entering of the Request for Continued Examination. After such is completed, the case will be returned to the examiner for prompt consideration.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

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: SEP 20 2002

spg
Paper Number 8

In re application of
Tetsuya Watanabe et al.
Serial No. 09/700,907
Filed: January 8, 2001
For: PHOTOSENSITIVE COMPOUND AND PHOTOSENSITIVE COMPOSITION:

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE LETTER MAILED 11/29/01, filed August 9, 2002. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 9, 2002, for failure to respond to the Office letter mailed November 29, 2001 be withdrawn. The petitioner asserts that the Office letter mailed November 29, 2001 was not received by the applicants or applicant's representative.

DECISION

Since the petitioner asserts that the applicant did not receive the Office letter mailed November 29, 2001, 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). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Office letter mailed November 29, 2001. The evidence provided includes a statement by the petitioner that the Office letter mailed November 29, 2001 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.

It is further noted that a review of the instant application file reveals that the Office letter mailed November 29, 2001 contained an incorrect serial number and mailing address thereon.

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 on November 29, 2001 to the address of record in the application file and restarting of the statutory period of response from the mail date thereof.

The Petition is **GRANTED**.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

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MAR 2 8 2002

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Washington, D.C. 20231
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SMITH, GAMBRELL & RUSSELL, LLP
The Beveridge, DeGrandi, Weilacherv &
Young Intellectual Property Group
1850 M Street, NW- Suite 800
Washington, DC 20036

In re Application of POULAKIS, Konstantinos Application No.: 09/700,910 PCT No.: PCT/EP98/03406 Int. Filing Date: 22 May 1998 Priority Date: None Attorney Docket No.: 041013R004 For: CLOSURE PART AND METHOD FOR ITS PRODUCTION AND APPARATUS FIR USING THE METHOD	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "RENEWED PETITION UNDER 37 C.F.R.1.497(d)" filed on 10 September 2001.

BACKGROUND

In a decision from this Office on 30 May 2001, the request was dismissed. The decision stated that applicant did not satisfy items (1) and (3) of 37 CFR 1.497(d).

On 10 September 2001, applicants filed the present renewed request accompanied by, *inter alia*, a statement from Konstantinos Poulakis and Axel Schulte with respect to the correction of inventorship in the above application, and a written consent of the Assignee regarding the change of Inventorship.

DISCUSSION

A review of the renewed request reveals that applicant has satisfied items (1) and (3) of 37 CFR 1.497(d). In regard to item (1), both Konstantinos Poulakis, the inventor being added, and Axel Schulte, the inventor being deleted, state that the error in inventorship occurred without deceptive intent on their part, respectively. With respect to item (3), Gottlieb Binder GmbH & Co., the assignee, consents to the correction of inventorship from Axel Schulte to Konstantinos Poulakis as the inventor of above application and has filed in the present request papers establishing their right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 date of this application is **13 February 2001**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
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MAY 3 0 2001

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In re Application of POULAKIS, Konstantinos Application No.: 09/700,910 PCT No.: PCT/EP98/03406 Int. Filing Date: 22 May 1998 Priority Date: None Attorney Docket No.: 041013R004 For: CLOSURE PART AND METHOD FOR ITS PRODUCTION AND APPARATUS FIR USING THE METHOD	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicant's "LETTER REGARDING CHANGE OF INVENTORSHIP PURSUANT TO 37 CFR §1.48(f)(1)" filed in the Patent and Trademark Office (PTO) on 13 February 2001, forwarding an executed declaration which adds inventor Konstantinos POULAKIS and deletes inventor Axel SCHULTE. The communication has been treated as a request under 37 CFR 1.497(d). Pursuant to authorization therein, the required petition fee of $130.00 (37 CFR 1.17(l)) has been charged to counsel's Deposit Account No. 02-4300.

BACKGROUND

On 22 May 1998, applicants filed international application No. PCT/EP98/03046, which designated the United States. A Demand electing, *inter alia*, the United States, was filed on 06 March 1999 prior to the expiration of 19 months from the priority date. Consequently, the deadline for entry into the national stage by paying the basic national fee in the U.S. expires as of midnight of 22 November 2000.

On 21 November 2000, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, payment of the full U.S. basic national fee. A declaration was not filed.

On 29 December 2000, the PTO mailed a "Notification of Missing Requirements Under 35 U.S.C. 371" (Form PCT/DO/EO/905) requiring a declaration in compliance with 37 CFR 1.497(a)-(b) and a surcharge for providing the oath and declaration later that the appropriate 20 or 30 months from the priority date. The notice set a one-month period for reply.

On 13 February 2001 applicant filed an Oath or Declaration of the inventor. In this case, inventor Konstantinos POULAKIS who is on the Declaration was not in the published international application.

DISCUSSION

A petition under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (2) because the petition fee of $130.00 has been charged to Deposit Account.

Applicants, however, have not provided items (1) and (3). In regard to item (1), the remarks submitted on 13 February 2001 are insufficient. Specifically, there are no statements from Mr. Poulakis (the added inventor) and from Mr. Schulte (the deleted inventor) that the error in inventorship occurred without a deceptive intent. A statement is required from each inventor being added and deleted that the inventorship error occurred without deceptive intention. In addition, with respect to item (3), there does not appeared to be a written consent of the assignee: Gottlieb Binder GmbH & Co. Note MPEP 201.03.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office..

Rafael Bacares
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Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

FEB 14 2001

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#3

Anna M. Budde
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Bloomfield Hills, MI 48303

In re Application of
DYKSTERHOUSE, Joel A.
U.S. Application No.: 09/700,950
PCT No.: PCT/US98/14122
Int. Filing Date: 08 July 1998
Priority Date: 08 July 1997
Attorney Docket No.: 405200002USD
For: METHOD OF PREPREGGING WITH RESIN AND NOVEL PREPEGS PRODUCED BY SUCH METHOD

DECISION

The "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 20 November 2000 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). The petition fee, basic national fee, extra claim, fee and one additional independent claim fee have all been paid. No terminal disclaimer is required. Thus, all requirements of 37 CFR 1.137(b) have been satisfied.

Applicant claims in the transmittal letter submitted with the instant petition, that a Declaration and Power of Attorney was included with the documents submitted on 20 November 2000. However, this document is not located in the file.

Therefore, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 and the required surcharge fee pursuant to 37 CFR 1.492(e).

It is noted that a postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon pursuant to MPEP 503.

James Thomson

James Thomson
PCT Attorney
PCT Legal Office

Tel.: (703) 308-6457

MAY 3 1 2001

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Washington, D.C. 20231
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#6

Anna M. Budde
HARNESS DICKEY & PIERCE
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of
DYKSTERHOUSE, Joel A.
U.S. Application No.: 09/700,950
PCT No.: PCT/US98/14122
Int. Filing Date: 08 July 1998
Priority Date: 08 July 1997
Attorney Docket No.: 405200002USD
For: METHOD OF PREPREGGING WITH RESIN AND NOVEL PREPEGS PRODUCED BY SUCH METHOD

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 CFR § 1.182" filed 10 April 2001 requesting that the United States Patent and Trademark Office (PTO) determine that a declaration was submitted in the above-captioned application on 20 November 2000. This is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 20 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 along with various other documents. Applicant claims that an executed declaration was included among these other documents. However, the declaration was not located in the above-captioned file.

On 21 February 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided. A one-month time period for response was set.

On 10 April 2001, applicant filed the instant petition along with, *inter alia*, a copy of the "Express Mailing Certificate" and postcard receipt for documents submitted 20 November 2000 and a copy of the declaration purportedly filed 20 November 2000.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the PTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The

identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicant has provided a copy of the date-stamped filing receipt for the documents submitted 20 November 2000. The receipt clearly identifies the application by the name of the applicant, attorney docket number, U.S. application number, filing date, and title. The filing receipt records that an "original executed Declaration and Power of Attorney" was received in the PTO. The postcard receipt is stamped "527 Rec'd PCT/PTO 20 NOV 2000" across its face. There are no annotations on the postcard receipt. This description is sufficient to prove that an executed declaration was filed on 20 November 2000.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the PTO on 18 April 2000.

A review of the declaration originally submitted 20 November 2000 reveals that it complies with the requirements of 37 CFR 1.497.

DECISION

For the reasons above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 21 February 2001 is hereby **VACATED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 July 1998, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **20 November 2000.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

21 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Knobbe, Martens, Olson & Bear, LLP
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Sixteenth Floor
Newport Beach, CA 92660

In re Application of YATA et al	:	
U.S. Application No.: 09/700,988	:	
Int. Application No.: PCT/JP99/02658	:	DECISION
Int. Filing Date: 20 May 1999	:	
Priority Date: 20 May 1998	:	
Attorney Docket No.: SAEGU64.001APC	:	
For: NONAQUEOUS SECONDARY CELL AND	:	
METHOD FOR CONTROLLING THE SAME	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)" filed 06 December 2002.

BACKGROUND

On 20 May 1999, applicant filed international application PCT/JP99/02658, which claimed priority of an earlier Japan application filed 20 May 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 October 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 20 November 2000.

On 20 November 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, inter alia, the basic national fee required by 35 U.S.C. 371(c)(1).

On 03 January 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 February 2001, applicant purportedly filed an executed declaration.

On 14 November 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 06 December 2002, applicant filed the present petition under 37 CFR 1.181 along with a copy of the declaration purportedly filed on 05 February 2001 and a copy of a return postcard receipt.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 05 February 2001. Specifically, the copy of the return postcard, which includes a "Decl. and Power of Atty. w/ attachment" in its itemized contents and which bears a USPTO date stamp of 05 February 2001, serves as *prima facie* evidence that the declaration was received by the USPTO on 05 February 2001.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 November 2002 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 20 May 1999 and a date under 35 U.S.C. 371(c) of 05 February 2001.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
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PCT Legal Office

Telephone: 703-308-6614
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In re Application of KOBAYASHI et al. Application No.: 09/700,993 PCT No.: PCT/JP99/02644 Int. Filing Date: 20 May 1999 Priority Date: 22 May 1998 For: ENDO-B-N-ACETYLGLUCOSAMINIDASE GENE	DECISION ON DECLARATION

This is a decision on the submission filed in the United States Patent and Trademark Office (USPTO) on 20 July 2001 in response to the 22 May 2001 Notification of Missing Requirements.

BACKGROUND

On 22 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration and a surcharge for filing after the 30 month period was required. The notification set a two-month time period in which to respond.

On 20 July 2001, applicants filed a Declaration and Power of Attorney signed by Yoriko Takeuchi, spouse and legal representative of second inventor, Makoto Takeuchi. There is no indication that Mr. Takeuchi is either deceased, insane or legally incapacitated.

DISCUSSION

The declaration submitted on 20 July 2001 identifies each inventor and country of citizenship of each inventor and states the relationship of Yoriko Takeuchi as legal representative of inventor Makoto Takeuchi. The declaration also states the citizenship, residency and mailing address of the legal representative. However, applicants have not explained whether the declaration is being filed under 37 CFR 1.42 [When the inventor is dead] or 1.43 [when the inventor is insane or legally incapacitated]. Thus, the requirements of 37 CFR 1.497 have not been met and the declaration is unacceptable at this time.

Accordingly, it is inappropriate to accord the application status under either 37 CFR 1.42 or 1.43 at this time.

CONCLUSION

For the above reasons, the declaration filed on 02 March 2001 is unacceptable and the request for acceptance of the declaration as a proper response to the Notification of Missing

Requirements is **DISMISSED without prejudice**.

If reconsideration of the merits of the request for status under 37 CFR 1.42 or 1.43 is desired, applicant is required to correct the above-noted defects within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission" under 37 CFR 1.42 under 37 CFR 1.43.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard R. Cole
Legal Examiner
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Cynthia M. Kratz
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MAR 27 2002

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In re Application of KOBAYASHI et al. Application No.: 09/700,993 PCT No.: PCT/JP99/02644 Int. Filing Date: 20 May 1999 Priority Date: 22 May 1998 For: ENDO-B-N-ACETYLGLUCOSAMINIDASE GENE	DECISION ON PETITION UNDER 37 CFR 1.42

This is a decision on Applicant's petition under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 04 February 2002 in response to the 05 December 2001 decision.

BACKGROUND

On 22 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration and a surcharge for filing after the 30 month period was required. The notification set a two-month time period in which to respond.

On 20 July 2001, applicants filed a Declaration and Power of Attorney signed by Yoriko Takeuchi, spouse and legal representative of second inventor, Makoto Takeuchi. There was no indication that Mr. Takeuchi was either deceased, insane or legally incapacitated.

On 05 December 2001, a decision on the submission was mailed to applicants, indicating that the declaration submitted on 20 July 2001 identified each inventor and country of citizenship of each inventor and stated the relationship of Yoriko Takeuchi as legal representative of inventor Makoto Takeuchi. The declaration also stated the citizenship, residency and mailing address of the legal representative. However, applicants did not explain whether the declaration was being filed under 37 CFR 1.42 [When the inventor is dead] or 1.43 [when the inventor is insane or legally incapacitated].

On 04 February 2002, the petition under 37 CFR 1.42 was filed, indicating that inventor Takeuchi is deceased.

With the submission of the petition under 37 CFR 1.42, the declaration submitted on 20 July 2001 meets the requirements of 37 CFR 1.497. The declaration is acceptable. Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the declaration filed on 20 July 2001 is acceptable and the request

for acceptance of the declaration as a proper response to the Notification of Missing Requirements is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **20 July 2001.**

Leonard E. Smith
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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ARLINGTON, VA 22201-4714

In re Application of	:	
Mark J. O'Connor, et al.	:	
Application No. 09/701,080	:	**DECISION ON PETITION**
Filed: February 27, 2001	:	
Attorney Docket No. 117-328	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on January 12, 2004.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file formal drawings as required in the Notice of Allowability, mailed July 31, 2003.

The Office acknowledges receipt of Part B – Fee(s) Transmittal, Amendment Under 37 CFR 1.312 with specifications, letter Submission Of Formal Drawings with fifteen (15) sheets of formal drawings on October 31, 2003, as evidenced by the "Office Date" stamp receipt thereon.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The afore-mentioned items were captured electronically (scanned) into the Image File Wrapper (IFW) system. However, the Amendment and Formal Drawings were not reviewed by the appropriate office—Technology Center (TC) 1600—to determine if they were accepted. A message will be forwarded to the Examiner, A. Salimi, Art Unit 1648, TC 1600 regarding the processing of the Amendment and Formal Drawings.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas E Hawkins

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

Serial No. 09/701,1[redacted]

JC04[redacted]PCT/PTO 15 JUN 2001

#3

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Patent Application		*I hereby certify that this correspondence is being deposited with the United Postal Service as express mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, DC 20231, on June 15, 2001*
Applicant:	Peter R. Reeves and Lei Wang	
PCT Intl. App. No.	PCT/AU99/00385	
Serial No.:	09/701,132	
Filed:	November 21, 2000	*Exp. Mail No. EL706574752US*
For:	**ANTIGENS AND THEIR DETECTION**	6/15/01 Jeff Nemmer
		Date

CORRESPONDENCE

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notification of Missing Requirements Under 35 U.S.C. §371, applicant hereby encloses documents in full compliance with form PCT/DO/EO/905 including an executed Declaration and Power of Attorney and surcharge for filing of same.

In response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, Form PCT/DO/EO/920, a copy of which is enclosed, please note that our records indicate that both paper and computer-readable forms (copy enclosed) of the Sequence Listing were filed at the time of filing of the patent application. Telephone calls to Ms. Shelby Vigil, of the U.S. Patent & Trademark Office on June 8, 2001 and June 14, 2001 were unable to resolve whether the United States Patent and Trademark Office records now show that the filed sequence listing and CFR were yet approved as being in compliance with 37 C.F.R. 1.821 through 1.825.

Biological Sequence Listing
Statements under 1.825(a) and 1.821(f)

This Preliminary Amendment including Statements under 37 C.F.R. 1.825(a) and 1.821(f) is accompanied by substitute sheets for the paper copy of the Sequence Listing of the above-identified patent application. The content of the Sequence Listing is the same as that filed on November 21, 2000, which is the same as the Sequence Listing for the international application as filed in the PCT, the difference being that the format has been updated in the paper copy to conform to the current U.S. Patent Office Sequence Listing requirements with page numbers beginning at 1.

This paper is also accompanied by a write-protected diskette (3.50 inch, 1.44 Mb storage capacity) containing the computer readable form (CRF) of the Sequence Listing as ASCII output from PatentIn version 2.0. The computer readable form filename is "P30384.app". The CRF of the sequence listing was generated by the PCT-filing associate in Australia using PatentIn Version 2.0 on May 21, 1999 on a PC-compatible computer.

The PatentIn output was transmitted via e-mail and copied onto the enclosed diskette June 15, 2001 unaltered as received. The information recorded in the computer readable form is identical to the enclosed paper copy of the Sequence Listing. A copy of the Patent output was opened into a word processing program separately to produce the enclosed paper copy substitute sheets of the Biological Sequence Listing that has the appropriate page numbering. The substitute sheets include no new matter.

Respectfully submitted,

WELSH & KATZ, LTD.

By Shannon L. Nebolsky

Shannon L. Nebolsky
Registration No. 41,217

Date: June 15, 2001

Enclosures:
Sequence Listing (paper and CRF); Executed Declaration and Power of Attorney and Surcharge Fee; Copy of previously filed CRF and Postcard

WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606-3913
Telephone: 312/655-1500

PCT Rec'd 15 JUN 2001

PTO/SB/17 (11-00)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to r espond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT $130.00

Complete if Known	
Application Number	09/701,132
Filing Date	November 21, 2000
First Named Inventor	Peter R. Reeves, et.al.
Examiner Name	Shelby Vigil
Group Art Unit	Not Yet Assigned
Attorney Docket No.	6433/80968

METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 23-0920

Deposit Account Name:

☒ Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR § 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	
				SUBTOTAL (1)	

2. EXTRA CLAIM FEES

	Extra Claims			Fee from below	Fee Paid
Total Claims		-20** =	0	X	= 0.00
Independent Claims		- 3** =	0	X	= 0.00
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent
				SUBTOTAL (2) $0.00

**or number previously paid, if greater; For Reissues, see above

06/19/2001 SNATARRE 00000010 09701132
01 FC:154 130.00 OP

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non - English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive - unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR § 1.17(q)	
126	180	126	180	Submission of Information Disclosure Statement	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify) _____	

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) $130.00

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	Shannon L. Nebolsky	Registration No. (Attorney/Agent)	41,217	Telephone	(312)655-1500
Signature	Shannon L Nebolsky			Date	6/15/2001

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

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

80165
GTS S. 1

U.S. APPLICATION NO		FIRST NAMED APPLICANT	ATTY. DOCKET NO
09/701132		REEVES P	6433/80968

WELSH & KATZ
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

INTERNATIONAL APPLICATION NO
PCT/AU99/00385

U.S. FILING DATE	PRIORITY DATE
21 MAY 99	21 MAY 98

DATE MAILED 16 MAY 2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as
   - ☐ a Designated Office (37 CFR 1.494).
   - ☒ an Elected Office (37 CFR 1.495):
   - ☒ U.S. Basic National Fee.
   - ☒ Copy of the international application in:
     - ☐ a non-English language.
     - ☒ English.
   - ☒ Translation of the international application into English.
   - ☐ Oath or Declaration of inventors(s) for DO/EO/US.
   - ☐ Copy of Article 19 amendments.
   - ☐ Translation of Article 19 amendments into English.
   - ☐ The International Preliminary Examination Report in English and its Annexes, if any.
   - ☒ Translation of Annexes to the International Preliminary Examination Report into English.
   - ☐ Preliminary amendment(s) filed _____ and _____
   - ☐ Information Disclosure Statement(s) filed _____ and _____.
   - ☐ Assignment document.
   - ☐ Power of Attorney and/or Change of Address.
   - ☐ Substitute specification filed _____.
   - ☒ Verified Statement Claiming Small Entity Status.
   - ☐ Priority Document.
   - ☐ Copy of the International Search Report ☐ and copies of the references cited therein.
   - ☐ Other:

RECEIVED
DOCKETING
MAY 21 2001
By
Due Date

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
   - ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
     - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
   - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
   - ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
     - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
   - ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☐ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes MUST be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR. 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed:
☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875

SHELBY VIGIL, PARALEGAL
Telephone 703-305-3653

FORM PCT/DO/EO/905 (December 1997)

2 0 FEB 200

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Shahan Islam
Rosenman & Colin LLP
575 Madison Avenue
New York, NY 10022-2585

In re Application of MACH	:	
U.S. Application No.: 09/701,168	:	
Int. Application No.: PCT/AU99/00389	:	DECISION
Int. Filing Date: 21 May 1999	:	
Priority Date: 23 May 1998	:	
Attorney Docket No.: 3114/FBR	:	
For: SECURED INTER-PROCESSOR AND VIRTUAL DEVICE COMMUNICATIONS SYSTEM	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and "Response to Notification of Missing Requirements Under 35 U.S.C. 371 and Petition Under 37 CFR 1.183 to Suspend the Rules" filed 23 July 2002.

BACKGROUND

On 21 May 1999, applicant filed international application PCT/AU99/00389, which claimed priority of an earlier United States application filed 23 May 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 December 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 24 November 2000 (23 November 2000 was a holiday).

On 22 November 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 January 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/AU99/00389 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 23 July 2002, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.183.

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), as discussed in §II below, applicant has not provided the required reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

II. Petition under 37 CFR 1.183

Petitioner requests that requirement of an oath or declaration be waived under 37 CFR 1.183. The requisite petition fee will be charged to Deposit Account No. 50-1290 as authorized in the petition.

37 CFR 1.183 states,

> 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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h). (Emphasis added.)

In the present case, 35 U.S.C. 115 requires an oath from the applicant, and such statute cannot be suspended or waived. Applicant may wish to consider filing a petition under 37 CFR 1.47(b).

CONCLUSION

For the reasons in §I above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

For the reasons in §II above, the petition under 37 CFR 1.183 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

19 AUG 2003

Kendall I. Thiessen
Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4100
Denver, CO 80202

In re Application of MACH	:	
U.S. Application No.: 09/701,168	:	
Int. Application No.: PCT/AU99/00389	:	DECISION
Int. Filing Date: 21 May 1999	:	
Priority Date: 23 May 1998	:	
Attorney Docket No.: 3114/FBR	:	
For: SECURED INTER-PROCESSOR AND	:	
VIRTUAL DEVICE COMMUNICATIONS	:	
SYSTEM	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR §1.137(b)" and "Petition Under 37 CFR 1.47(b) for Acceptance of Application Where No Inventors are Available" filed 28 July 2003.

BACKGROUND

On 21 May 1999, applicant filed international application PCT/AU99/00389, which claimed priority of an earlier United States application filed 23 May 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 December 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 24 November 2000 (23 November 2000 was a holiday).

On 22 November 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 January 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/AU99/00389 became abandoned as to the United States for

failure to timely respond to the Notification of Missing Requirements.

On 23 July 2002, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.183.

On 20 February 2003, this Office mailed a decision dismissing the 23 July 2002 petitions.

On 28 July 2003, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b).

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided a proper reply in the form of a petition under 37 CFR 1.47(b).

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

Therefore, all of the requirements for a petition under 37 CFR 1.137(b) have been met.

II. Petition under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that the inventor Ronald Mach cannot be located. Applicant has adequately demonstrated that Mach cannot be found. Specifically, attempts to contact Mach by telephone, postal mail, directories, and through Mach's former employer were unsuccessful (see affidavit of Shahan Islam).

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, although the petition states that a declaration executed by the 37 CFR 1.47(b) applicant is enclosed, no such declaration appears in the application file.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

The petition states that the invention has been assigned to Aristocrat Technologies Australia Pty Limited ("Aristocrat"). The petition is accompanied by a copy of an assignment agreement from Ronald Mach to NuGame, Inc. However, although the petition states that it is accompanied by a copy of an assignment from NuGame, Inc. to Aristocrat Leisure Industries Pty. Ltd., no such assignment appears in the application file. Thus, applicant has not demonstrated that Aristocrat has sufficient proprietary interest in the application.

With regard to item (6) above, applicant has sufficiently demonstrated that filing of the application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties.

Therefore, applicant has failed to satisfy items (4) and (5) above.

CONCLUSION

For the reasons in §I above, the petition under 37 CFR 1.137(b) is GRANTED.

For the reasons in §II above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136. Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

22 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Kendall I. Thiessen
Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4100
Denver, CO 80202

In re Application of MACH	:	
U.S. Application No.: 09/701,168	:	
Int. Application No.: PCT/AU99/00389	:	DECISION
Int. Filing Date: 21 May 1999	:	
Priority Date: 23 May 1998	:	
Attorney Docket No.: 3114/FBR	:	
For: SECURED INTER-PROCESSOR AND	:	
VIRTUAL DEVICE COMMUNICATIONS	:	
SYSTEM	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b) for Acceptance of Application Where No Inventors are Available" filed 20 October 2003.

BACKGROUND

On 21 May 1999, applicant filed international application PCT/AU99/00389, which claimed priority of an earlier United States application filed 23 May 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 December 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 24 November 2000 (23 November 2000 was a holiday).

On 22 November 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 January 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/AU99/00389 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 23 July 2002, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.183.

On 20 February 2003, this Office mailed a decision dismissing the 23 July 2002 petitions.

On 28 July 2003, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b).

On 19 August 2003, this Office mailed a decision granting the petition under 37 CFR 1.137(b) and dismissing the petition under 37 CFR 1.47(b).

On 20 October 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (2), (3), and (6) above.

With regard to item (4) above, the requisite declaration has been received.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

The petition states that the invention has been assigned to Aristocrat Technologies Australia Pty Limited ("Aristocrat"). Petitioner has previously submitted a copy of an assignment agreement from Ronald Mach to NuGame, Inc. In addition, the renewed petition includes a copy of an assignment from NuGame, Inc. to Aristocrat. Thus, applicant has demonstrated that Aristocrat has sufficient proprietary interest in the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 21 May 1999 and a date under 35 U.S.C. 371(c) of 20 October 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 7, 2006

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/701168 Patent No.: 7,093,040 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

NOV 02 2006

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2111

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,231,416	:	
Issue Date: June 12, 2007	:	
Application No. 09/701,194	:	ON PETITION
Filed: November 27, 2000	:	
Attorney Docket No. 36-1367	:	

This is a decision on the petition filed June 27, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ILYA ZBOROVSKY
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MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Ashkinazi	:	
Application No. 09/701,204	:	DECISION ON PETITION
Filed: January 12, 2001	:	
Attorney Docket No. NDS 33514	:	

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed April 11, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on December 18, 2001. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on March 19, 2002. A Notice of Abandonment was mailed on May 29, 2002.

With the instant petition, petitioner paid the petition fee together with the issue and publication fees, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 16

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NEW YORK, NY 10017

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Wolfgang Fleischer, et al. :
Application No. 09/701,220 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 228.1006 :

This is a decision in response to the petition, filed March 2, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed November 26, 2002. A Notice of Abandonment was mailed on November 5, 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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being forwarded to Technology Center AU 1615 for consideration of the amendment filed March 2, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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#19

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Washington, DC 20036

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NOV 09 2005

TECHNOLOGY CENTER 3600

In re Application of :
Norio Nagatsuka, et al. :
Application No. 09/701,254 :
Filed: November 27, 2000 :
For: ROBOT DEVICE CONTROL METHOD FOR ROBOT DEVICE, AND PROGRAM RECORDING MEDIUM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on October 22, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing:

☒ Postcard receipt dated March 29, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/rwg: 1/06/05

Randolph A. Reese
Special Programs Examiner
Group 3600

AUG 2 1
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#4

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Washington, DC 20043-4387

In re Application of	:	DECISION ON
SHI et al.	:	
Application No.: 09/701,309	:	PETITION UNDER
PCT No.: PCT/JP00/01754	:	
Int. Filing Date: 23 March 2000	:	37 CFR 1.47(a)
Priority Date: 31 March 1999	:	
Attorney Docket No.: L9289.00120	:	
For: COMMUNICATION TERMINAL	:	
APPARATUS, BASE STATION APPARATUS	:	
AND RADIO COMMUNICATION METHOD	:	

This is a decision on applicants' "PETITION UNDER 37 C.F.R. § 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 26 March 2001.

BACKGROUND

On 23 March 2000, applicants filed international application PCT/JP00/01754, which claimed a priority date of 31 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 October 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 31 November 2000.

On 28 November 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

On 26 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a one-month extendable period for reply.

On 26 March 2001, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*: a petition/fee for a two-month extension of time; surcharge under 37 CFR 1.492(e); an authorization to charge any fees which may be required to Deposit Account

19-4375; a declaration of inventors executed by two of the three joint inventors; a declaration of facts by Osamu Kato; cover letters of mailings sent to Mr. Shi on 08 February 2001 and 16 February 2001; and translations of Registered Record of Delivery for these mailings which indicate that these mailings were returned to the sender after a one-week custodial period due to absence of the recipient.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to (1), the fee of $130.00 under 37 CFR 1.17(h) has been charged to Deposit Account 19-4375, as authorized in the transmittal letter accompanying the petition. It is noted that this transmittal letter also authorizes that the surcharge under 37 CFR 1.492(e) be charged to this Deposit Account. However, this surcharge was already paid on 26 December 2000 and thus has not been charged again. As to (3), a statement of the last known address of Mr. Shi has been provided. Item (4) has also been met.

As to (2), the petition does not include sufficient proof to establish that inventor Chi could not be found or reached after diligent effort. The translation of the first Registered Record of Delivery states that "[t]his mail is returned to a sender since a recipient was absent at the time of mail delivery". This translation also indicates a custodial period of seven days. The translation of the second Registered Record of Delivery states that "[t]his mail is returned to a sender since a custodial period of seven days under Article 90 of Post Office Rule expired." Thus, the items sent to Mr. Chi were available from the period of 09 February 2001 to 24 February 2001, a period of about two weeks. It is noted that Mr. Chi may simply have been on vacation during this time. It is noted that the fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

Also, from the translations of the Registered Record of Delivery, it is not clear exactly how this mail was attempted to be delivered. The translation of the first Registered Record of Delivery suggests that a delivery was attempted but Mr. Chi was not there at that time. It is not clear if any written communication was left at that address informing Mr. Chi that a package was attempted to be delivered and that such package would be held at the Post Office for a period of seven days. It is not clear from the translation of the second Registered Record of Delivery whether a delivery to the address was attempted or whether any written communication was left at that address indicating that a package for Mr. Chi would be held at the Post Office for a period of seven days. Thus, it is not clear whether Mr. Chi no longer resides at that address, was simply

not at that address during the period in question, or was not at that address on the first attempted delivery and simply failed to later pick up the delivery at the post office. Additionally, it is not clear whether any attempt was made to find a forwarding address if it was believed that Mr. Chi no longer resided at his last known address.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

Also, it is noted that the declaration sent to Mr. Chi listed only Mr. Chi as an inventor and failed to list the other two inventors. Consequently, even if it had been signed by him, it would not have been in compliance with 37 CFR 1.497(a)-(b). Additionally, it is noted that if petitioner were attempting to establish a refusal of the inventor to execute the application (rather than attempting to establish that the inventor could not be found or reached after diligent effort), it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. See MPEP § 409.03(d). While the Exhibits include a copy of the application papers (specification, including claims, drawings, and oath or declaration), the translations of the cover letters and the petition fail to state that a copy of the specification was sent. Accordingly, if any additional papers are sent to Mr. Chi for signature, it is suggested that they at least include a declaration of inventors listing all of the inventors and a copy of the specification including claims, drawings, and abstract. Thus, if Mr. Chi is found but refuses to execute the application, at least these items will have been satisfied.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
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In re Application of SHI et al. Application No.: 09/701,309 PCT No.: PCT/JP00/01754 Int. Filing Date: 23 March 2000 Priority Date: 31 March 1999 Attorney Docket No.: L9289.00120 For: COMMUNICATION TERMINAL APPARATUS, BASE STATION APPARATUS AND RADIO COMMUNICATION METHOD	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 19 October 2001.

BACKGROUND

On 23 March 2000, applicants filed international application PCT/JP00/01754, which claimed a priority date of 31 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 October 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 31 November 2000.

On 28 November 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

On 26 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a one-month extendable period for reply.

On 26 March 2001, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*: a petition/fee for a two-month extension of time; surcharge under 37 CFR 1.492(e); an authorization to charge any fees which may be required to Deposit Account 19-

4375; a declaration of inventors executed by two of the three joint inventors; a declaration of facts by Osamu Kato; cover letters of mailings sent to Mr. Shi on 08 February 2001 and 16 February 2001; and translations of Registered Record of Delivery for these mailings which indicate that these mailings were returned to the sender after a one-week custodial period due to absence of the recipient.

On 21 August 2001, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that sufficient factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort was not provided.

On 19 October 2001, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR §1.47(a)", which was accompanied by, *inter alia*, a supplemental declaration of facts of Osamu Kato, a registered mail receipt (with English translation) for a delivery made to Mr. Shi on 17 September 2001, a "Record of Delivery" (with English translation) for recipient Mr. Shi, and a sample "Notice of Delivery" (with English translation).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 21 August 2001, items (1), (3), and (4) have been met.

As to item (2), sufficient factual proof has now been provided that the missing joint inventor Mr. Shi cannot be reached after diligent effort. The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a).

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **26 March 2001**.

Daniel Stemmer
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PCT Legal Affairs
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12 AUG 2002

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STEVENS DAVIS MILLER & MOSHER
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WASHINGTON, DC 20036

In re Application of	:	
SHI et al.	:	DECISION
Application No.: 09/701,309	:	
PCT No.: PCT/JP00/01754	:	
Int. Filing Date: 23 March 2000	:	
Priority Date: 31 March 1999	:	
Attorney's Docket No.: L9289.00120	:	
For: COMMUNICATION TERMINAL	:	
APPARATUS, BASE STATION APPARATUS	:	
AND RADIO COMMUNICATION METHOD	:	:

This is a decision in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed 17 April 2002.

BACKGROUND

On 23 March 2000, applicants filed international application PCT/JP00/01754, which claimed a priority date of 31 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 October 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 31 November 2000.

On 28 November 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

On 26 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a one-month extendable period for reply.

On 26 March 2001, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*: a petition/fee for a two-month extension of time; surcharge under 37 CFR 1.492(e); an authorization to charge any fees which may be required to Deposit Account 19-4375; a declaration of inventors executed by two of the three joint inventors; a declaration of facts

by Osamu Kato; cover letters of mailings sent to Mr. Shi on 08 February 2001 and 16 February 2001; and translations of Registered Record of Delivery for these mailings which indicate that these mailings were returned to the sender after a one-week custodial period due to absence of the recipient.

On 21 August 2001, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that sufficient factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort was not provided.

On 19 October 2001, applicants submitted a "RENEWED PETITION UNDER 37 CFR §1.47(a)", which was accompanied by, *inter alia*, a supplemental declaration of facts of Osamu Kato, a registered mail receipt (with English translation) for a delivery made to Mr. Shi on 17 September 2001, a "Record of Delivery" (with English translation) for recipient Mr. Shi, and a sample "Notice of Delivery" (with English translation).

On 08 March 2002, the USPTO mailed a decision granting applicants' renewed petition under 37 CFR 1.47(a).

On 14 March 2002, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according a 371(c) date of 26 March 2001.

On 17 April 2002, applicants submitted the instant "REQUEST FOR CORRECTED FILING RECEIPT" requesting that the title be changed and that the filing date be changed from 26 March 2001 to 28 November 2000.

DISCUSSION

Regarding applicant's request to change the filing date, attention is directed to MPEP § 1893.03(b), which states:

> An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application. Specifically, 35 U.S.C. 363 provides that
>
> > An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.
>
> Similarly, PCT Article 11(3) provides that

> ...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.

37 CFR 1.496(a), first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met." Thus, when the file wrapper label or PALM bib-data sheet is printed, the information is read from the PALM data base and the information printed in the filing date box is the date of entry into the national stage rather than the actual international filing date. See in the preceding section the sample National Stage Filing Under 35 U.S.C. 371 wherein the face of the file of national stage application number 07/XXX,XXX is shown with the date of entry into the national stage (11/08/91) shown in the FILING DATE box and the true U.S. filing date (01/10/90) is indicated just to the right of the international application number (PCT/EP90/XXXXX) in the FOREIGN/PCT APPLICATIONS block.

Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For all legal purposes, the filing date is the PCT international filing date. The date of actual entry into the national stage is otherwise the date provided in the PALM system. Any issued patent will have all of the relevant dates listed.

Accordingly, no action is required regarding applicants' request to correct the filing date.

CONCLUSION

For the reasons set forth above, applicants' request for corrected filing receipt is **GRANTED-IN-PART** to the extent that the title will be changed as requested.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for issuance of a corrected filing receipt with the title changed to -- COMMUNICATION TERMINAL APPARATUS, BASE STATION APPARATUS AND RADIO COMMUNICATION METHOD--.

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27 APR 2004

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Susan M. Pellegrino
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In re Application of	:	
BURCHARDT, Elmer ET AL.	:	
Application No.: 09/701,313	:	
PCT Application No.: PCT/EP99/03392	:	DECISION ON
International Filing Date: 17 May 1999	:	
Priority Date: 28 May 1998	:	PETITION
Attorney Docket No.: Le A 32 701	:	
For: MONOCLONAL ANTIBODY	:	UNDER 37 CFR 1.137(b)
AND ASSAY FOR DETECTING	:	
PIIINP	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 03 December 2002, is GRANTED.

BACKGROUND

On 17 May 1999, applicants filed international application number PCT/EP99/03392, claiming priority to an earlier European application, filed on 28 May 1998. A copy of the international application was transmitted by the International Bureau to the United States Patent and Trademark Office on 02 December 1999. A demand was filed electing the United States of America on 19 November 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2000.

On 28 November 2000, applicants timely filed national stage papers in this application, including, *inter alia*, the basic national fee and executed inventor declaration. The transmitted international application included applicants' Sequence Listing in paper form.

On 30 April 2001, applicants were mailed a Notification of Missing Requirements FORM PCT/DO/EO/905, with attached Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/920, for failure to provide a CRF Sequence Listing and accompanying statement of identical disclosure and no new matter. Applicants were given a two-month extendible time period of response.

On 18 May 2001, applicants timely filed a paper form Sequence Listing, CRF Sequence Listing, and statement.

On 06 December 2001, applicants were mailed a letter withdrawing a Notice of Acceptance that had been purportedly mailed on 24 October 2001. Since no Notice of Acceptance had been mailed to applicants, this withdrawal notice of 06 December 2001 was moot.

On 06 December 2001, applicants were mailed a Notification of Missing Requirements, with a two-month extendible time for response, and a Raw Sequence Listing Error Report, generated by analyzing the CRF submitted on 18 May 2001.

On 15 February 2002, applicants' paper form Sequence Listing, CRF Sequence Listing, and statement in response to the 06 December 2001 Notification of Missing Requirements were timely filed within the provided two-month period of response.

In the meantime, on 01 February 2002, applicants were mailed a Notification of Defective Response, with a one-month period of response, and a Raw Sequence Listing Error Report, generated by analyzing the CRF submitted on 18 May 2001. This 01 February 2002 Notification was duplicative of the 06 December 2001 Notification except for the 01 February 2002 mailing date, different period of response, and different title. This 01 February 2002 Notification did not account for applicants' 15 February 2002 response.

On 11 March 2002, applicants' paper form Sequence Listing, CRF Sequence Listing, and statement in response to the 01 February 2001 Notification of Defective Response were timely filed within the provided one-month period of response.

On 03 April 2002, applicants were mailed a Notification of Defective Response and CRF Problem Report, explaining that the CRF filed on 15 February 2002 was damaged.

On 20 May 2002, applicants' paper form Sequence Listing, CRF Sequence Listing, and statement in response to the 03 April 2002 Notification of Defective Response were timely filed within the provided one-month period of response.

On 15 August 2002, applicants were mailed a Notification of Abandonment FORM PCT/DO/EO/909 for failure to provide a compliant Sequence Listing in response to the Notification of Missing Requirements mailed on 30 April 2001. Accompanying the Notification of Abandonment was a Raw Sequence Listing Error Report, generated by analyzing the CRF filed on 11 March 2002. Errors not previously identified in the Error Report generated by analyzing the CRF submitted on 18 May 2001 were pointed out to applicants. The CRF, filed on 20 May 2002, was also reported as damaged.

On 03 December 2002, applicants filed this instant petition for revival of an unintentionally abandoned application. On 02 December 2002, applicants paper form Sequence Listing, CRF Sequence Listing, and statement, addressing the Raw Sequence Error Report of the CRF submitted by mail on 01 March 2002, were filed. The CRF filed on 02 December 2002 has been deemed technically acceptable.

DISCUSSION

NOTIFICATION OF ABANDONMENT

As assessed on 06 December 2001 and as evidenced by the Raw Sequence Listing Error Report, generated on 05 July 2001 by analyzing the CRF filed on 18 May 2001, applicants' response of 18 May 2001 was noncompliant. Having been issued the Notification of Missing Requirements FORM PCT/DO/EO/905 mailed on 30 April 2001, applicants were obligated to provide a compliant Sequence Listing within the time period for response set forth in that Notification, a maximum of seven months from the mailing date of the Notification. Since applicants response on 18 May 2001 fell within the provided period of response to the Notification of Missing Requirements mailed on 30 April 2001 and since applicants had not already been issued a Notification of Defective Response, applicants, as of 06 December 2001, were entitled to a Notification of Defective Response FORM PCT/DO/EO/916, with a one-month non-extendible time period for response, to enable applicants another opportunity to provide a compliant Sequence Listing. Instead, applicants were improperly given a two-month extendible period of response under a new Notification of Missing Requirements mailed on 06 December 2001.

Applicants responded with noncompliant materials timely filed on 15 February 2002. Applicants' lateness of submission, beyond what should have been a one-month due date, is excused in view of the provision of a two-month extendible period of response in the Notification of Missing Requirements mailed on 06 December 2001. However, by this response filed on 15 February 2002, applicants failed to provide a compliant paper form and CRF Sequence Listing and accompanying statement, within the time period for response set forth in the Notification of Missing Requirements FORM PCT/DO/EO/905 (371 Formalities Notice), mailed on 30 April 2001. This failure is evidenced by the Notification of Defective Response, mailed on 03 April 2002, accompanying which is the CRF Problem Report that describes the CRF filed on 15 February 2002 as damaged.

Due to this failure to provide a compliant response by 30 November 2001, the application went abandoned as of this date. The Notifications of Defective Response mailed on 01 February 2002 and 03 April 2002 were issued in error. It is remarked that, even if these subsequent notifications had been proper, applicants failed to provide a compliant response within the time periods set by these notifications, which failure also would result in the application being abandoned.

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to item (1) above, applicants have provided a statement that explains that "[t]he 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." The abandoned status of the application was conveyed to applicants by the Notification of Abandonment mailed on 15 August 2002. Applicants were made aware in this Notification of their continued failure as of 15 August 2002 to satisfy the Sequence Listing requirements as set forth in the Notification of Missing Requirements mailed on 30 April 2001. The rationale provided above for considering the application as correctly having been abandoned results in the same date of and reason for abandonment as set forth in the Notification. Therefore, applicants' statement satisfies the requirements of 37 CFR 1.137(b)(3) and the requirement of item (1) above.

With regard to item (2) above, applicants filed a paper form Sequence Listing, a CRF Sequence Listing, and statement on 02 December 2002, which CRF Sequence Listing has been deemed technically acceptable, meeting the requirement of item (2) above.

With regard to item (3) above, applicants have furnished the required petition fee of $1280.00, meeting the requirement of item (3) above.

With regard to item (4), a terminal disclaimer is not required as the application was filed after 08 June 1995, meeting the requirement of item (4) above.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to National Stage in the United States of America.

This application has an international filing date of 17 May 1999 under 35 USC 363 and a date of 28 November 2000 under 35 USC 371(c)(1), (c)(2), and (c)(4).

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone: (703) 308-6162
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Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
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03 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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J. Bennett Mulllinax
DORITY & MANNING, P.A.
Post Office Box 1449
Greenville, South Carolina 29602-1449

In re Application of Erich SCHOLZ (deceased), et al. Application No.: 09/701,329 PCT No.: PCT/DE99/03909 Int. Filing Date: 07 December 1999 Priority Date: 09 December 1998 Attorney Docket No.: RCZ-98/098 For: MIXING FIBROUS COMPONENTS	DECISION ON PAPERS FILED UNDER 37 CFR 1.42

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.42" filed 15 May 2003 in response to the Office decision of 18 March 2003. The Renewed Petition is GRANTED, as follows:

The Office decision of 18 March 2003 objected to the declaration of the inventors submitted 27 November 2000 for failure to identify Rita Scholz and Olaf Scholz as legal representatives or sole heirs of deceased joint inventor Erich Scholz. In response, applicants filed on 15 May 2003 the present renewed Petition along with a newly executed declaration of the inventors in which Rita Scholz and Olaf Scholz identify themselves as the only heirs of deceased inventor Erich Scholz.

The above application and papers have been reviewed and found in compliance with 37 CFR 1.42. Nonetheless, it should be noted that the top part of the first line of the signature page in the declaration was cut off. Since the language is present in the first declaration, the two declarations taken together are acceptable

The application is being returned to the United States Designated/Elected Office for further processing. The declaration is acceptable under 37 CFR 1.497.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

SEP 2 4 2001

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Eric J. Groen
Baker & Daniels
205 W. Jefferson Blvd., Suite 250
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In re Application of Tom Blomme et al. Application No.: 09/701,349 PCT No.: PCT/DE99/00918 Int. Filing Date: 25 March 1999 Priority Date: 28 May 1998 Attorney's Docket No.:KSN0007 For: RF CONNECTOR WITH CUTTING EDGES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision in response to the declaration and petition filed under 37 CFR 1.47(a) on 11 June 2001, to accept the application without the signature of co-inventor Mr. Tom Blomme. The required $130 petition fee has been received.

BACKGROUND

On 25 March 1999, applicants filed international application PCT/DE99/00918, which claimed priority of an earlier German application filed 28 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 September 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2000.

On 28 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a translation of the international application into English, a copy of the Search Report, a copy of the International Preliminary Examination Report, a copy of the annexes translated into English, a preliminary amendment and the requisite basic national fee as required by 35 U.S.C. 371(c).

On10 January 2001, the United States Designated/Elected Office mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form

PCT/EO/EO905), indicating that an oath or declaration and the surcharge for filing the oath or declaration later that 30 months from the priority date as required by 37 CFR 1.492(e) needed to be filed. The notification set a one-month time period in which to respond.

In response to the Form PCT/DO/EO/905, on 11 June 2001, applicant filed the following papers:

1) a transmittal letter;

2) a petition under 37 CFR 1.47 (a) and the required petition fee;

3) the required surcharge for filing the declaration later than 30 months from the earliest priority date;

4) declarations/powers of attorney signed by inventors Jan Dessein, Marcus Schulte, Martin Strab, Edgard Acke, Joris Dobelaere, and Bernard Houtemann;

5) an affidavit by Marion Heinz-Schafer concluding that Tom Blomme had not signed a declaration and giving Tom Blomme's last known address;

6) an affidavit by Eric J. Groen; and,

7) a petition and fee for a four-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

With respect to item (1), the $130 petition fee under 37 CFR 1.17(h) was included with the petition. The petition is missing item (2). With respect to item (3), Ms. Marion Heinz-Schafer has given a statement of Mr. Tom Blomme's last known address. The petition is missing item (4).

MPEP 409.03(d) states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

With respect to item (2) above, Marion Heinz-Schafer stated, "On about January 20, 2001, at my request and direction, my secretary Ms. Pia Mueller spoke with Mr. Tom Blomme who informed her that he had received the application papers, including the declaration, but that he refused to sign the declaration, and any further formal papers." This affidavit does not satisfy the requirements of MPEP 409.03(d) in that Ms. Pia Mueller is the person to who the refusal was made, and she has not supplied an affidavit.

With respect to item (4) above, the declaration identifies each inventor and country of citizenship of each inventor. However, the declaration submitted contained four identical sheets of page 4 of 5. The first page 4 of 5 was signed by Marcus Schulte, the second page 4 of 5 was signed by Martin Straub, the third page 4 of 5 was signed by Edgard Acke and the fourth page 4 of 5 was signed by Joris Dobbelaere. The declaration is not properly executed. It appears that the attorney pieced together six separate complete declarations into one composite declaration or an inventor was presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 have not been met and the declaration is unacceptable.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C., 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Boris Milef
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MAY 20 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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Eric J. Groen
Baker & Daniels
205 W. Jefferson Blvd., Suite 250
South Bend, IN 46601

In re Application of Tom Blomme et al. Application No.: 09/701,349 PCT No.: PCT/DE99/00918 Int. Filing Date: 25 March 1999 Priority Date: 28 May 1998 Attorney's Docket No.:KSN0007 For: RF CONNECTOR WITH CUTTING EDGES	RENEWED DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision in response to the declarations and renewed petition filed under 37 CFR 1.47(a) on 28 March 2002, to accept the application without the signature of co-inventor Mr. Tom Blomme. The required $130 petition fee was received with the earlier filed petition.

BACKGROUND

On 25 March 1999, applicants filed international application PCT/DE99/00918, which claimed priority of an earlier German application filed 28 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau 02 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 September 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2000.

On 28 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a translation of the international application into English, a copy of the Search Report, a copy of the International Preliminary Examination Report, a copy of the annexes translated into English, a preliminary amendment and the requisite basic national fee as required by 35 U.S.C. 371(c).

On10 January 2001, the United States Designated/Elected Office mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/EO/EO905), indicating that an oath or declaration and the surcharge for filing the oath or declaration later than

30 months from the priority date as required by 37 CFR 1.492(e) needed to be filed. The notification set a one-month time period in which to respond.

On 11 June 2001, applicant filed a petition under 37 CFR 1.47(a). On 24 September 2001, a decision was mailed to applicant dismissing his petition. The decision indicated that the affidavit must come from someone with first hand knowledge and that the declarations were improper.

On 28 March 2002, applicant filed the current petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

With respect to item (1), the $130 petition fee under 37 CFR 1.17(h) was included with the earlier filed petition. With respect to item (3), Ms. Marion Heinz-Schafer has given a statement of Mr. Tom Blomme's last known address in the earlier filed petition.

With respect to item (2) above, Ms. Pia Mueller has provided an affidavit stating that she provided Mr. Tom Blomme with a copy of both the patent application and the declaration by facsimile on 20 December 2000. One month later, she phone Mr. Blomme and he informed her that he was refusing to sign the application papers. This satisfies item (2).

With respect to item (4) above, applicant has provided complete copies of five declarations. Separate declarations have been signed by Marcus Schulte, Martin Strab, Joris Dobbelaere and Bernard Houteman. Jan Dessein and Edgard Acke signed on one declaration. This satisfies item (4) above.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 25 March 1999 under 35 U.S.C. 363, and a date of 28 March 2002 under 35 U.S.C. 371.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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PCT Special Programs Examiner
PCT Legal Office

Leonard Smith
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication For 09/701,349

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Tom Blomme) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.63. The international application number is PCT/DE99/00918 and was filed on March 25, 1999 in the names of Tom Blomme, Jan Dessin, Marcus Schulte, Martin Strab, Edgard Acke, Joris Dobbeleare and Bernard Houtemann for the invention entitled RF CONNECTOR WITH CUTTING EDGES. The national stage application number is 09/701,349 and has a 35 U.S.C. 371 date of 28 March 2002.

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Mr. Tom Blomme
T Vrije 46
B-8560 Moorsele
Belgium

In re Application of
Tom Blomme et al.
Application No.: 09/701,349
PCT No.: PCT/DE99/00918
Int. Filing Date: 25 March 1999
Priority Date: 28 May 1998
Attorney's Docket No.:KSN0007
For: RF CONNECTOR WITH CUTTING EDGES

Dear Dr. Blomme:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Eric J. Groen
Baker & Daniels
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Eugene J. Kalil
HOPGOOD, CALIMFDE, KALIL
& JUDLOWE
60 East 42nd Street
NY, NY 10165

In re Application of
Kumasaka et al.
Application No.: 09/701,420
PCT No.: PCT/JP99/2888
Int. Filing Date: 31 May 1999
Priority Date: 29 May 1998
Attorney's Docket No.: T-8846
For: TOKIN CORPORATION

DECISION

This application is before the PCT Legal Office for consideration of issues arising under 35 USC 371. The above application was mistaken assigned Application Serial No.: 09/463,801, which had already been assigned to another international application. Upon review, this inadvertent mistake has been corrected. The correct Application Serial Number for PCT/JP99/2888 is 09/701,420, and all future correspondence dealing with the above international application should refer to such serial number.

This application is being returned to the National Stage Processing for correction of the data and processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
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McDERMOTT WILL & EMERY
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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Thomas Charles Elleman et al :
Application No. 09/701,437 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 50179-086 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record discloses that a final Office action was mailed on September 22, 2003, setting a three month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefor, a reply, with the appropriate extension of time fee, was due on or before March 22, 2004. A fee for a two (2) month extension of time $420.00 and the Notice of Appeal with $330.00 fee were received in the U.S. Patent and Trademark Office (USPTO) on February 23, 2004. However, it is noted that the petition for extension of time filed on February 23, 2004, authorized the USPTO to "charge any additional fees or credit any overpayment to Deposit Account No. 500417." Therefore, since the petition for extension of time authorized to charge additional fees pursuant to 37 CFR 1.17 was timely filed, this application file is not in fact abandoned.

As explained above, the $1,330.00 received for the instant petition is unnecessary and will be credited to petitioner's Deposit Account No. 50-0417.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to Technology Center AU 1631.

Wan Laymon

Wan Laymon
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Wolfgang Fleischer et al	:	
Application No. 09/701,450	:	
Filed: November 27, 2000	:	
Attorney Docket No. 228.1007	:	

This is a decision on the petition filed, October 27, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 22, 2004, which set a shortened statutory period for reply of three (3) months. Three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 22, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 22, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1615 for further processing.

Irvin Dingle
Petitions Examiner
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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NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Fleischer et al	:	
Application No. 09/701,450	:	ON PETITION
Filed: November 27, 2000	:	
Attorney Docket No. 228.1007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 29, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $ extension of time submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 1615 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Director's Office
Office of Patent Publication

DAVID A. GREENLEE
P.O. BOX 340557
COLUMBUS, OH 43234

In re Application of	:	
ADLER, PAUL E.	:	
Application No. 09/701,455	:	**DECISION ON PETITION**
Filed: February 2, 2001	:	
Attorney Docket No. 30427	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on April 1, 2005.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee. The Notice of Abandonment mailed on March 29, 2005 indicates, "The submitted fee of $147 is insufficient. A balance of $553 is due." Also, noting "Insufficient Funds in Deposit Account."

Petitioner argues:

That the USPTO, by retaining the $147, agreed to accept partial payment and was obligated to either (a) timely notify the applicant of the deficiency or (b) seek the deficiency from the Deposit Account before the due date of 2/22/05.

That the Deposit Account was replenished on $1,500 on February 17, 2005 prior to the due date

That the USPTO was given an open-ended authorization on February 10, 2005 to charge the issue fee and any other fee required to Deposit Account 07-1971

The Office acknowledges receipt of Part B – Fee(s) Transmittal on February 15, 2005, as evidenced by the "Office Date" stamp thereon and thereafter scanned as a computer image into the Image File Wrapper (IFW) system. The Fee(s) Transmittal authorized that the Issue Fee, and Advance Order Copies Fee be charged to Deposit Account No. 07-1971.

Unfortunately, on February 16, 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

The petitioner therefore has not complied with 37 CFR 1.25 (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(b), the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR 1.137 may be directed to the Office of Petitions at 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 Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of	:	
Paul E. Adler	:	
Application No. 09/701,455	:	ON PETITION
Filed: February 5, 2001	:	
Attorney Docket No. 30427	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2005 and supplemented on March 14, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 23, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

JUL 25 20

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Joseph W. Price
PRICE AND GESS
2100 S.E. Main St., Suite 250
Irvine, CA 92614

In re Application of	
Kazuo OHBA	DECISION ON
Application No.: 09/701,504	
PCT No.: PCT/JP00/02980	PETITION
Int. Filing Date: 10 May 2000	
Priority Date: 10 May 1999	UNDER 37 CFR 1.182
Attorney's Docket No.: KAMI-BN12	
For: ARM FOR ELASTIC DOLL, METHOD OF FORMOLDING SAME AND MOLD THEREFORE	

This decision is in response to applicants' "LETTER" filed 01 June 2001, which is a copy of a petition under 35 CFR 1.182 faxed 01 December 2000 which requested correction of the identification of the application number in applicant's papers. The $130 petition fee has been charged to counsel's Deposit Account No. 16-2462 as authorized in applicant's petition.

BACKGROUND

On 10 May 2000, applicants filed international application PCT/JP00/02980, which claimed priority to an earlier filed Japanese application filed 10 May 1999. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 10 January 2001.

On 29 November 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and declaration as required by 35 U.S.C. 371(c)(4).

On 01 June 2001, applicants filed the present petition requesting indication of the international application number be corrected on the transmittal letter.

DISCUSSION

The transmittal letter of 29 November 2000 identified the application number as PCT/JP00/02980. A review of the declaration filed on 29 November 2000 reveals that it is directed towards the specification filed in PCT/JP00/02980 filed 10 May 2000. Applicant

petition is granted. The international application number on the transmittal letter filed on 29 November 2000 has been corrected to PCT/JP00/02980.

CONCLUSION

The petition under 37 C.F.R. 1.182 to correct the application number is GRANTED.

Applicant' claim for priority is acknowledged. The application has an international filing date of 10 May 2000 under 35 U.S.C. 363 and a date of **29 November 2000** under 35 U.S.C. 371.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

REED SMITH
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE
29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED

JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Ari Derowe et al :
Application No. 09/701,523 : NOTICE
Filed: November 28, 2000 :
Attorney Docket No. 088/01933 :

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 3731.

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2009

TO SPE OF : ART UNIT 1648
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/701536/7417136

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

SPE — 1648 Art Unit

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SONNENSCHEIN NATH & ROSENTHAL LLP
P. O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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JUL 10 2007

OFFICE OF PETITIONS

In re Application of :
Mark John Riches et al :
Application No. 09/701,559 : DECISION ON PETITION
Filed: February 5, 2001 :
Attorney Docket No. 09813970-1040 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on April 28, 2006, holding this application abandoned for failure to timely pay the issue fee on or before June 21, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed March 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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.

Petitioner has submitted $300 for the publication fee. However, as this application did not publish, no publication is due or was required by the Notice mailed March 21, 2005. Accordingly, the $300 fee will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

A review of this application disclosed that the oath submitted on February 5, 2001 in reply to a "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), mailed January 3, 2001, did not include the signature of inventor Mark John Riches. In response to a telephone call from the undersigned on May 17, 2007, an executed declaration by inventor Riches was received on May 21, 2007.

This application is being referred to PCT for such further action as may be necessary regarding the oath filed on May 21, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,572	01/29/2001	Eva Kondorosi	200204US0PCT	5065

22850 7590 07/11/2006

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
COLLINS, CYNTHIA E

ART UNIT	PAPER NUMBER
1638	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20060629

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Cynthia Collins
Primary Examiner
Art Unit: 1638

Applicant's PETITION UNDER 37 CFR 1.181 to invoke supervisory authority to formally acknowledge consideration of a document cited on the International Search Report is granted. The reference is listed on the attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (571) 272-0794. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cynthia Collins
Primary Examiner
Art Unit 1638

Cynthia Collins
6/29/06

CC

Anne Marie Grunberg
ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID C. LIECHTY
1350 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036

In re Application of	:	
Kock et al	:	Decision on Petition
Serial No. : 09/701,586	:	
Filed : 30 November 2000	:	
Attorney Docket No. : 49790	:	

This letter is in response to the Petition for Reconsideration of Restriction Requirement under 37 C.F.R. 1.144 filed on August 04, 2003. The delay in acting upon this petition is regretted.

BACKGROUND

This application is filed as 35 USC 371 of the National Stage filing of PCT/EP99/03889, filed 04 June 1999.

A review of the file history shows that on 24 September 2002, the Examiner instituted a lack of unity requirement of claims 1-32 into fifteen groups. Further the Examiner selected a certain motifs and made an additional Restriction Requirement solely among the sequences directed towards SEQ ID Nos: 1-13 and 15-19. Examiner has cited Lepiniec et al (FEBS 364: 103-108, 1995) to show that the claimed inventions lack unity.

Applicants filed a response to the lack of unity along with amendments to claims on 25 October 2002. Applicants elected group I and selected the invention of SEQ ID NO:2 with traverse.

On 13 January 2003, the Examiner in the Non-final Office Action addressed the Applicants traversal of election of group I, and selected invention of SEQ ID NO: 2, stated that the selection of SEQ ID NO: 2 is considered as restriction and is not election of species and made the Restriction Requirement Final.

Applicants filed a response (including Affidavits) to the Non-final office Action and amendments to claims on 08 July 2003.

A Petition for Reconsideration of Restriction Requirement was filed on August 04 2003.

On 26 September 2003, a Final office Action was filed in this application.

Applicants filed amendments to the claims and a Request for Continued Examination of this application on 01 March 2004.

In the Petition filed on 04 August 2003, the unity of invention between groups I-XV in general and particularly between group I and groups V-VI is at issue.

Group I, original claims 1-4, drawn to poly (ADP-ribose) polymerase (PARP) homolog containing NAD+ binding domain but without zinc finger sequence motif of the general formula (SEQ ID NO: 30).

Group II, original claim 5, drawn to a binding partner for PARP homologs, which is an antibody.

Group III, original claim 5, drawn to a binding partner for PARP homologs, which is protein-like compound.

Group IV, original claim 5, drawn to a binding partner for PARP homologs, which is a low-molecular weight effector, and method of using the PARP binding partners for the diagnosis of pathological states.

Group V, original claims 6-10, drawn to a nucleic acid encoding at least one PARP homolog, an expression cassette, a recombinant vector, and recombinant microorganism comprising at least one recombinant vector.

Group VI, original claim 11, drawn to a transgenic mammal comprising at least one recombinant vector.

Group VII, original claim 12, drawn to a PARP deficient eukaryotic cell or a PRP-deficient mammal.

Group VIII, original claims 13-22, drawn to a method of in-vitro detection for PARP inhibitor using PARP homolog.

Group IX, original claim 23, drawn to a method for in-vitro screening binding partners for a PARP homolog.

Group X, original claims 24, 27, drawn to a method for the qualitative or quantitative determination of nucleic acids encoding PARP homolog.

Group XI, original claims 25-26, drawn to method of qualitative or quantitative determination of encoding PARP homolog.

Group XII, original claim 28, drawn to a method for determining the efficacy pf PARP effectors.

Group XIII, original claim 29, drawn to a gene therapy composition comprising an antisense nucleic acid against a coding nucleic acid, which encodes PARP homolog.

Group XIV, original claim 30, drawn to a pharmaceutical composition comprising PARP protein.

Group XV, original claims 31-32, drawn to a method of using low-molecular weight PARP binding partners for therapy.

RELEVANT AUTHORITY

An international or a national stage application are considered to have unity of invention where there exists a "special technical feature" that defines a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. See PCT Rule 13.2; 37 CFR 1.475(a), (b)(1) and(2).

In addition to the categories provided for in 37 CF 1.475(b) (1-5), unity of invention is provided for in the following context:

Claim 1: Protein X
Claim 2: DNA sequence encoding protein X.

wherein expression of the DNA sequence in a host results in the production of a protein, which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity of invention between claims 1 and 2 is accepted.

See MPEP 1893.03(d) and Annex B, Part 2 of the PCT Administration Instructions, Example 17.

Unity of invention has to be considered in the first place only in relation to the independent claims in an international and not the dependent claims and (i) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims;
(ii) If however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on the claim need to be carefully considered. If there is no link remaining an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. See ANNEX B: Unity of Invention Part 1 "Instructions Concerning Unity of Invention" MPEP AI-6 (Rev. 1. Feb. 2003).

According to PCT Rule 13.2 and to the guidelines in Section (f) of Annex B of the PCT Administrative Instructions, the situation involving the so-called "Markush practice " wherein a single claim defines alternatives (chemical or non-chemical), the requirement of a technical

interrelationship and the same or corresponding special technical features as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.
(i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
(A) all alternatives have a common property or activity, **and**
(B) (1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives, or
(B) (2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

(ii) In paragraph (f)(i)(B)(1), above, the words "significant structural element is shared by all of the alternatives " refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art. The structural element may be a single component or a combination of individual components linked together.

DISCUSSION

The petition and application file history have been considered carefully.

The above-identified application is a national stage application submitted under 35 U.S.C. 371 to which "unity of invention", and not U.S. restriction practice is applicable. MPEP section 189.03(d). The lack of unity between the groups I, and groups V-VI and the technical feature linking all the groups (groups I-XV) is at issue.

Representative claims of group I:

> Original Claim 1, a poly (ADP-ribose) polymerase (PARP) homolog which has an amino acid sequence which has a) a functional NAD^+ binding domain and b) no zinc finger sequence motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30, and X radical are independently of one another, any amino acid; and the functional equivalents thereof.

Amended (01 March 2004) independent claim 1 representing group I:

> An isolated and purified poly (ADP-ribose) polymerase (PARP) homolog selected from the group consisting of human PARP2 (SEQ ID NO: 2), human PARP3 type I (SEQ ID NO: 4), human PARP3 type 2 (SEQ ID NO:6), murine PARP long form (SEQ ID NO: 8), murine PARP short form (SEQ ID NO: 10), and functional equivalents thereof which are at least 85 % homologous thereto, exhibit poly (ADP-ribose)-synthesizing activity, and have an amino acid sequence which a) a functional NAD^+ binding domain comprising the sequence motif $PX(S/T)GX_3GKGIYFA$ (SEQ ID NO: 11) and b) lacks zinc finger sequence motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30, and X radical are independently of one another, any amino acid.

NOTE in both original claim 1 and amended claim 1, it is considered that the PARP homolog has an amino acid sequence which has a) NAD^+ binding domain and **either** lacks zinc finger sequence motif completely **or** lacks zinc finger sequence motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30, and X radical are independently of one another, any amino acid.

Representative claims of group V:

Original Claim 6, a nucleic acid comprising, a) nucleic acid encoding the PARP homologs, complementary nucleotide sequences thereof, b) a nucleotide sequence which hybridizes with a sequence as specified in a); c) nucleotide sequence which are derived from the nucleotide sequences defined in a) and b) through the degeneracy of the genetic code.

Claim 7, nucleic acid of claim 6 comprising a) nucleotides of + 3 to +1715 shown in SEQ ID NO: 1; b) nucleotides +242 to +1843 shown in SEQ ID NO: 3; c) nucleotides +221 to +1843 shown in SEQ ID NO: 5; d) nucleotides +112 to +1710 shown in SEQ ID NO: 7; **or** e) nucleotides + to +1584 shown in SEQ ID NO: 9.

Representative claims of group VI:

Original claim 11, a transgenic mammal comprising a vector comprising the nucleotide sequence of claim 6.

It is noted that group VI depends upon and requires the nucleic acid of group V. Applicants are correct that groups V and VI share technical feature and thus groups V and VI are rejoined.

It is noted that both the independent original claim 1 and later amended claim 1, are drawn to a genus of polypeptides and not to a single species of protein, not to a single species of nucleic acid molecules encoding the PARP homolog of claim 1, as exemplified in Example 17. Accordingly, the unity of invention pursuant to Example 17 may not be applicable.

The polynucleotide of group V does not share a common structure or function or property with the polypeptide of group I. Further neither the nucleic acid molecule comprising a nucleic acid sequences of claim 11, nor the nucleotide sequence, which hybridizes with the sequence as specified in a) of claim 6, are required to or could possibly encode PARP homologs of claim 1, such that according to the PCT Administrative Instructions Example 17, the inventions would exhibit corresponding special technical feature.

Moreover, the polynucleotides of claim 6 (b) are not required to encode the PARP homolog (polypeptide) of group I. The nucleic acid sequences in claim 7; and claim 6, a) complementary nucleotide sequences, b) nucleotide sequences which hybridizes with sequences specified in a), c) nucleotide sequences which are derived from sequences of a), b), are non coding sequences of unspecified length, which may include mutations that disrupt the open reading frame. Transcription and translation of non-coding strand would not result in the polypeptides of group I. Thus within the large number of polynucleotides encompassed by group V, many would not encode the polypeptides of group I. For these reasons Groups I and V lack corresponding technical features and the original Lack of Unity between groups I and V-VI was proper.

According to the PCT Rule 13.2, the special technical feature shall mean those technical features that define contribution which each of the claimed inventions, considered as whole makes over the prior art.

The technical feature of rejoined groups V and VI is considered as polynucleotide.
The technical feature of group I is considered as PARP homolog polypeptide.
The polynucleotide is made of nucleic acids, and the polypeptide is made of amino acids.
Thus, the polynucleotides of rejoined group V and the transgenic animal of group VI, and the polypeptides of group I are not linked by the same or corresponding technical feature as defined by PCT Rule 13.2.

The technical feature of groups II is antibody (a protein which is structurally, and functionally different from the protein of group I).
The technical feature of groups III is protein like compound (note it is not a protein).
The technical feature of groups IV is low-molecular weight effector (note it is not a protein).
The technical feature of groups VII is PARP deficient eukaryotic cell (absent of PARP).
The technical feature of groups VIII , IX, X, XI, XII, XIII , and XV is use of PARP homologs in different assays.
The technical feature of groups XIV is PARP protein or polynucleotides.
The technical feature of each group I, II, III, IV, VII and XIV is structurally different from each other.
Thus groups I, II, III, IV, VII and XIV are not linked by the same or corresponding technical feature as defined by PCT Rule 13.2.
Further the technical feature of group I is well known in the art, and does not contribute over the prior art, thus the unity of invention between the groups I-XV is lacking.

It is noted that the special technical feature of the original claim 1 is the PARP homolog, having an amino acid sequence, which has a) a functional NAD^+ binding domain and b) no zinc finger sequence motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30, and X radical are independently of one another, any amino acid; and the functional equivalents thereof.

In the present instance neither the polynucleotide of group V and nor the polypeptides of group I (original claims) exhibit a corresponding special technical feature since a) Cherney et al (Proc. Natl. Acad. Sci. USA. Vol. 84 (1987), pages 8370-8374) teaches poly (ADP-ribose) polymerase (PARP) amino acid sequences which have homology to other DNA binding proteins. Cherney et al teach that the PARP proteins bind to DNA/NAD–binding proteins, and the presence of consensus nucleotide-binding site (residues 888-901) (pro-val-thr-gly-tyr-met-phe-gly-lys-Lys-gly-ile-tyr-phe-ala), which refers to the NAD^+ binding domain of the instant invention (SEQ ID NO: 11); and lacks zinc finger motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30 of the instant claim. Cherney et al teach the PARP has a zinc binding finger sequence of (residues 21-56) $\underline{Cys\text{-}Xaa_2\text{-}Cys\text{-}Xaa_{27}\text{-}His\text{-}Xaa_2\text{-}Cys}$, which is different from the zinc finger motif of general formula of instant claim. Thus, the PARP

taught by Cherney et al has a functional NAD^+ binding domain and lacks the zinc finger motif of general formula $CX_2CX_mHX_2C$ (SEQ ID NO: 30) in which m is an integral value from 28 or 30.

b) Lepiniec et al (FEBS Letters, vol. 364, pages 103-108 (1995) (cited by the Examiner in the original Lack of Unity) teach Arabidopsis thalina cDNA homologue to animal poly (ADP-ribose) polymerase. The reference teaches that the APP (Arabidopsis PARP) has the PARP signature sequence 'tyr-gly-X-X-X-gly-lys-gly', which refers to the NAD^+ binding domain, and has no N-terminal zinc finger binding motifs of PARP.

In view of the teachings of both Cherney et al and Lepiniec et al, the original claim set lacks the technical feature linking the inventions. The technical feature of group I, the PARP homolog of original claim 1 is not considered as special technical feature in groups II-XV, because Cherney et al and Lepiniec et al teach the PARP homologs of group I. The technical feature linking groups I-XV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art and hence the unity of invention is lacking.

With regard to newly presented 'an isolated and purified PARP homolog' of claim 1, it is noted that the polynucleotides of group V are not required to encode the PARP homologs and the functional variants thereof, of the amended claim 1. Further amended claim 1 recites a broad genus of amino acid sequences of SEQ ID NO: 2, 3, 4, 6, 8 and 10 and the functional variants thereof. An alignment of these sequences show that they have less than 36 % homology with the selected and examined SEQ ID NO: 2. See the attached Sequence Alignment. The sequences or the structure (NAD + binding domain and lack of zinc finger sequence of SEQ ID NO: 30) shared by SEQ ID Nos: 2, 3, 4, 5, 8 and the functional variants there of, were taught by the prior art (see Cherney et al (1987) and Lepiniec et al (1995)).

According to PCT Rule 13.2, the PARP homolog of sequences of SEQ ID Nos: 2, 3, 4, 6, 8, and functional variants thereof, are not regarded as being of a similar nature because the common structure present (NAD + binding domain and lack of zinc finger sequence of SEQ ID NO: 30) is only a small portion of their structure (or sequence) (because the sequences share less than 36 % homology) and the commonly shared structure does not constitute a structurally distinctive portion. The homologs of SEQ ID NOs: 2, 3, 4, 6, 8, 10, and functional variants thereof, are not regarded as having same corresponding special technical features because the shared common structure is not a contribution over the prior art. See Cherney et al (Proc. Natl. Acad. Sci. USA. Vol. 84 (1987), pages 8370-8374) and Lepiniec et al (FEBS Letters, vol. 364, pages 103-108 (1995). Both Cherney et al and Lepiniec et al teach PARP proteins which have NAD^+ binding domain, lack zinc finger motif of SEQ ID NO: 30. Thus, the shared common structure is not a contribution over the prior art, the inventions drawn to sequences of SEQ ID Nos: 2, 3, 4, 6, 8 and 10 lack unity.

DECISION

Applicant's petition for reconsideration of Restriction requirement between groups I-XV under 37 CFR 1.144 is **GRANTED –IN-PART** for the reasons set forth above.

The lack of unity determination between groups V and VI has been withdrawn.

The lack of unity determination between groups I, II, III, IV, (rejoined groups V, VI), VII, VIII, IX, X, XI, XII, XIII, XIV and XV is maintained.

Any request for consideration must be filed within TWO (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for preparation of an office action in response to the RCE filed on 01 March 2004.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 18

DATE : April 13, 2006

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/701588 Patent No.: 6,713,301

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: There's no indication that the change would have been readily apparent to one skilled in the art.

James C. Housel — **SPE**

1648 — **Art Unit**

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Washington DC 20036

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Christian Gancet et al :
Application No. 09/701,681 :
Filed: June 1, 2001 :
Attorney Docket No. 33808F138(17 :

ON PETITION

This is a decision on the petition, filed July 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 May 11, 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 1751 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-12-09

Paper No.: _____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/701699 Patent No.: 6633051

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: Should COFC be approved

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

Connie Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Georgia Y. Epps SPE 442878
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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PATENT & TRADEMARK OFFICE

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

Paper No.

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JUL 1 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Mikael Brulls
Application No. 09/701,714
Filed: December 1, 2000
Attorney Docket No. 1103326-0647

This is a decision on the petition, filed by facsimile transmission on July 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 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 1614 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

WHITE & CASE LLP
PATENT DEPARTMENT
JUL 21 2003
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).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jacobson, Price, Holman & Stern
The Jenifer Building
400 Seventh Street N.W., Suite 600
Washington, DC 20004-2201

In re Application of CONNOLLY et al. Application No.: 09/701,739 PCT No.: PCT/IE99/00049 Int. Filing Date: 03 June 1999 Priority Date: 03 June 1998 Attorney's Docket No.: P66063US0 For: A THERAPEUTIC BED	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" filed 28 June 2001, which has been treated as a request for acceptance of the application filed on behalf of a deceased inventor under 37 CFR 1.42.

BACKGROUND

On 03 June 1999, applicants filed international application PCT/IE99/00049, which claimed a priority date of 03 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 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 04 December 2000 (03 December 2000 being Sunday).

On 04 December 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 29 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required. This Notification set a one month extendable period for reply.

On 28 June 2001, applicants submitted the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of the inventors, an "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY . . . INVENTOR (37 CFR 1.42 AND 1.43), a copy of a district probate registry, and a copy of the last will and testament of Patrick Connolly.

DISCUSSION

The "ADDED PAGE . . ." filed 28 June 2001 states that Una Connolly is the "legal representative (or heirs) of Patrick Joseph Connolly." Thus, it is not clear whether Una Connolly is signing as the legal representative, as an heir, or as the sole heir. The copy of the will and the copy of the district probate registry appear to have been filed under 37 CFR 1.44 to satisfy the proof of authority. However, the proof requirement under 37 CFR 1.44 was deleted as to all pending papers under 37 CFR 1.42 that had not had the proof requirement satisfied as of 08 September 2000. 54604 **Federal Register**, Vol. 65, No. 175, Friday, September 8, 2000, 54618.

Under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). If the declaration is signed by a legal representative, the declaration should state that this person is the legal representative. Alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. If the declaration is not signed by a legal representative and does not indicate that the persons signing are all of the heirs (or the sole heir), then it must be accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

It is also noted that the declaration filed 28 June 2001 fails to comply with 37 CFR 1.497(a)-(b) because it does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (in addition to the full name and citizenship of the deceased inventor). See 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under

37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Jacobson, Price, Holman & Stern
The Jenifer Building
400 Seventh Street N.W., Suite 600
Washington, DC 20004-2201

In re Application of CONNOLLY et al. Application No.: 09/701,739 PCT No.: PCT/IE99/00049 Int. Filing Date: 03 June 1999 Priority Date: 03 June 1998 Attorney's Docket No.: P66063US0 For: A THERAPEUTIC BED	: : : : : : : :	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a decision on applicants' "RESPONSE TO DECISION ON PAPER UNDER 37 CFR 1.42" filed 18 October 2001.

BACKGROUND

On 03 June 1999, applicants filed international application PCT/IE99/00049, which claimed a priority date of 03 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 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 04 December 2000 (03 December 2000 being Sunday).

On 04 December 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 29 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required. This Notification set a one month extendable period for reply.

On 28 June 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of the inventors, an "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY . . . INVENTOR (37 CFR

1.42 AND 1.43), a copy of a district probate registry, and a copy of the last will and testament of Patrick Connolly.

On 21 September 2001, the USPTO mailed a decision refusing applicants' request for status under 37 CFR 1.42. Specifically, it was noted that it was not clear from the declaration filed 28 June 2001 whether Una Connolly was signing as the legal representative, as an heir, or as the sole heir. The decision noted that if the declaration is signed by a legal representative, the declaration should state that this person is the legal representative or, alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. The decision also indicated that the declaration failed to comply with 37 CFR 1.497(a)-(b) because it did not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (in addition to the full name and citizenship of the deceased inventor).

On 18 October 2001, applicants submitted the instant "RESPONSE TO DECISION ON PAPER UNDER 37 CFR 1.42".

DISCUSSION

The submission filed 18 October 2001 includes a statement by applicants' attorney that Una Connolly is the legal representative. Also, as noted in the submission filed by applicants on 18 October 2001, the declaration filed 28 June 2001 does include the residence, mailing address and citizenship of Una Connolly. Accordingly, the above application and papers have been found in compliance with 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing including according the application a 35 U.S.C. 371(c) date of **28 June 2001**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 20

ATTN: LEGAL-MANUFACTURING
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

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OFFICE OF PETITIONS

In re Application of	:	
Connolly et al.	:	
Filed: June 18, 2001	:	DECISION ON
Attorney Docket No. P66063USO	:	PETITION
Title: THERAPEUTIC BED	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47 TO ACCEPT INVENTORSHIP DECLARATION OR UNDER 37 CFR 1.183 TO SUSPEND OR WAIVE THE REQUIREMENT OF A SUPPLEMENTAL DECLARATION UNDER 37 CFR 1.67," filed July 22, 2002, and resubmitted June 16, 2003. This petition is properly treated as a petition under § 1.183 for waiver of the requirement that a supplemental declaration required pursuant to § 1.67(b) be executed by all of the inventors.

The above-identified application was filed on June 28, 2001[1]. An original declaration filed June 28, 2001 and executed by inventor Chinnathamby Vijayendran and legal representative Una Connolly was accepted under 37 CFR 1.42 (Decision mailed March 8, 2002). On July 22, 2002, applicants filed a supplemental declaration executed by legal representative Connolly on behalf of herself and on behalf of non-signing inventor Vijayendran. Petitioner states that efforts to locate inventor Vijayendran and obtain his supplemental signature were not successful.

Waiver of the requirement for the signatures of all of the inventors (and/or legal representatives) on a supplemental declaration is proper, where applicants show that the non-signing inventor (or legal representative) has refused to sign the supplemental declaration, or cannot be found or reached, after diligent effort, to sign the supplemental declaration.

Petitioner has shown that waiver of the requirement that the supplemental declaration be executed by all of the joint inventors is justified. The instant petition includes adequate proof that either the non-signing inventor refuses, by his conduct in not responding[2], to sign the supplemental declaration,

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[1] The date the application met the requirements of 35 U.S.C. 371.

[2] The petition includes evidence that the Express Mail package containing the supplemental declaration was received by inventor Vijayendran, as it was signed for by a person named Vijayendran on FEDEX delivery to the

or cannot be reached, after diligent effort; an acceptable declaration as required by 37 CFR 1.63; a statement of the last known address of the inventor Vijayendran; as well as, payment of the petition fee.

The application file is being returned to Technology Center 3673 for action by the examiner.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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last known address.

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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SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

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OFFICE OF PETITIONS

In re Application of	:
Isao Kawahara	:
Application No. 09/701,753	: DECISION GRANTING PETITION
Filed: December 1, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NAKI-BN21	:

This is a decision on the petition, filed August 10, 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 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SNELL & WILMER LLP
600 ANTON BOULEVARD, SUITE 1400
COSTA MESA, CA 92626

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OFFICE OF PETITIONS

In re Application of	:
Isao Kawahara	:
Application No. 09/701,753	: DECISION GRANTING PETITION
Filed: December 1, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 62478-3500	:

This is a decision on the petition, filed November 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2673 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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due 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).*

MAY 30 2[redacted]
UNITED STATES PATENT [redacted]RADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

E. Victor Donahue
PFIZER INC.
Legal Department, 20th Floor
235 East 42nd Street
New York, New York 10017-5755

In re Application of Harold N. CONKLE, et al. Application No.: 09/701,760 PCT No.: PCT/US00/04733 Int. Filing Date: 25 February 2000 Priority Date: 26 February 1999 Attorney Docket No.: PC10433A For: METHOD FOR THE PURIFICATION, RECOVERY, AND SPORULATION OF CYSTS AND OOCYSTS	DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS..." filed 19 April 2001 and ensuing communications of 11 May and 24 May 2001 in the above-captioned application. Applicants' communications are being treated as a petition under 37 CFR 1.181 requesting acceptance of copies of the declarations of the inventors submitted 11 May 2001 as being submitted originally on 19 April 2001 in the above-captioned application. The petition is **GRANTED** as follows:

No petition fee is required.

The evidence submitted by applicants, which includes a copy of the postcard receipt with a PTO mailroom stamped date of 19 April 2001 itemizing all the papers submitted on filing in the above-captioned application, is sufficient to establish that 10 declarations of the inventors for application serial number 09/701,760 were received in the Office on that date. The postcard receipt clearly shows that 10 separate Declarations with Power of Attorney and a Response to Notice of Missing Requirements for applicants "Harold Conkle et al." bearing docket No. PC10433A and having a title "Method for the Purification, Recovery and Sporulation of Cysts and Oocysts" were submitted on 19 April 2001. Accordingly, acceptance of copies of the declarations filed 11 May 2001 as being submitted originally on 19 April 2001 is appropriate.

A review of the declarations of the inventors filed 11 May 2001 reveals that they are in compliance with 37 CFR 1.497.

Applicants are hereby notified that since a DEMAND for Preliminary Examination was filed on 21 September 2000 prior to the expiration of 19 months from the priority date of 26 February 1999, the $130.00 surcharge for filing an oath or declaration after 30 months mentioned in the Notice of Missing Requirements is not needed.

Applicants' claim for priority is acknowledged. The application has an international filing date of **25 February 2000** under 35 U.S.C. 363 and a date of **19 April 2001** under 35 U.S.C. 371(c) and 102(e).

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

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EDWARD F. REHBERG
PFIZER LEGAL DIVISION
PATENTS
301 HENRIETTA STREET
KALAMAZOO, MI 49007-4940

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FEB 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Harold N. Conkle, et al.	:	
Application No. 09/701,760	:	ON PETITION
Filed: April 19, 2001	:	
Attorney Docket No. PC10433A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 October 25, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated October 21, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

A review of the file record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

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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).

The application is being referred to Technology Center AU 1645 for further processing of the request for continued examination under 37 CFR 1.114 filed August 20, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P. O. BOX 37428
RALEIGH, NC 27627

UNITED STATES PATENT AND TRADEMARK OFFICE

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Joel G. Landau
SOCAL IP LAW GROUP
310 N. Westlake Blvd., Suite 120
Westlake Village, CA91362

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SEP 1 9 2005

OFFICE OF PETITIONS

In re Application of :
TAZAWA, et al. : DECISION ON PETITION
Application No.: 09/701,791 :
Filed: January 19, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: D102-P03112US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2005, to revive the above-identified application.

The petition is **DISMISSED** as being immaterial to a pending application.

A final Office action, which set a shortened statutory period for reply of three (3) months, was mailed June 16, 2004. Applicant filed a response on September 13, 2004. As detailed in the Office action mailed October 15, 2004, the response failed to place the application in condition for allowance. On December 10, 2004, applicant filed a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114. On December 27, 2004, applicant was mailed a Office communication informing applicant that the amendment filed December 10, 2004 was considered non-compliant as it failed to meet the requirements of 37 CFR 1.121. Applicant then filed the petition to revive considered herein.

As explained in the communication mailed December 27, 2004, applicant's filing of the RCE and submission under 37 CFR 1.114. on December 10, 2004, while not in compliance with 37 CFR 1.121, is considered a *bona fide* attempt to provide a complete reply to the last Office action. In such cases, the application is not held abandoned and applicant is given the longer of one month or thirty days form the mail date of the notice of non-compliance to provide an amendment complying with 37 CFR 1.121. (See also, MPEP § 706.07(h)(VI)(A)).

As the above-identified application is not abandoned the petition under 37 CFR 1.137(b), filed January 13, 2005, is moot and the petition fee is credited to Deposit Account 50-1524.

The application is being referred to Technology Center AU 1734.

Telephone inquires concerning this decision should be directed to Derek A. Putonen at (571) 272-3294 or in his absence, the undersigned at (571) 272-3217

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

MAY 3 0 2002

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Morgan E. Malino
Carr & Ferrell, LLP
2225 East Bayshore Road, Suite 200
Palo Alto, CA 94303

In re Application of	:	
HERSH, et al.	:	DECISION ON PETITION
Application No.: 09/701,797	:	
PCT No.: PCT/US99/12433	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 June 1999	:	
Priority Date: 03 June 1998	:	
Attorney Docket No.: PA1675US	:	
For: METHOD FOR INCREASED CONCURRENCY	:	
IN A COMPUTER SYSTEM	:	

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 January 2002. Applicant included the $640.00 small entity petition fee.

BACKGROUND

On 03 June 1999, applicant filed international application PCT/US99/12433, which claimed priority of an earlier application filed 03 June 1998. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 December 2000.

On 01 December 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and a power of attorney executed by inventor Clifford HERSH.

On 11 January 2001, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) and a "NOTIFICATION OF DEFECTIVE OATH OR DECLARATION" (Form PCT/DO/EO/917) informing applicant that the declaration filed 01 December 2000 was defective in that it did not identify the citizenship, city, state and country of residence for all the inventors. Applicant was advised of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and providing a surcharge of $65.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e)). Applicant was advised of the need to respond within one month or the application would be abandoned as to the United States.

On 13 February 2001, applicant filed a second declaration for patent executed by Clifford HERSH and Joan TODD as the legal representative for deceased inventor Herbert W. SULLIVAN. The filed declaration consisted of two separate declarations listing only one of the two individuals named above.

On 23 February 2001, applicant was mailed a "NOTIFICATION OF DEFECTIVE OATH OR DECLARATION" (Form PCT/DO/EO/917) and a "NOTIFICATION OF A DEFECTIVE RESPONSE" informing applicant that the declaration filed 13 February 2001 did not comply with 37 CFR 1.497(a) and (b) and that applicant was afforded one month to file a compliant oath or declaration or the application would become abandoned as to the United States.

On 10 August 2001, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) for failing to respond to the "NOTIFICATION OF A DEFECTIVE RESPONSE" mailed 23 February 2001 within the time period set therein.

On 16 January 2002, applicant filed the present petition accompanied by a check in the amount of $705.00 ($65.00 as payment of the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date and $640.00 as payment of the petition fee). In addition, applicant filed a "Response to Notification of a Defective Oath or Declaration" accompanied by a declaration for patent.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (2), applicant included payment of the petition fee along with the present petition.

As to Item (3), applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

With regard to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Thus, applicant has satisfied Items (2), (3) and (4) above.

With regard to Item (1), the proper response was the submission of an executed oath or

declaration of the inventors which complies with 37 CFR 1.497 (a) and (b). Applicants have not submitted a compliant declaration. The submitted declaration in effect lists two first inventors. As discussed in the Manual of Patent Examining Procedure (MPEP) section 201.03, an oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, **each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity.** In addition, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The declaration also appears to be a request for acknowledgment of status under 37 CFR 1.42 in that inventor Herbert SULLIVAN is apparently deceased. Applicant is advised that in such cases the residence, post office address and country of citizenship information must be provided for both the deceased joint inventor, Herbert SULLIVAN and the legal representative, Joan TODD.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

For the reasons stated above, the petition for revival is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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03 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	DECISION ON PETITION
HERSH, et al.	:	
Application No.: 09/701,797	:	UNDER 37 CFR 1.47(a)
PCT No.: PCT/US99/12433	:	
Int. Filing Date: 03 June 1999	:	AND RENEWED
Priority Date: 03 June 1998	:	
Attorney Docket No.: PA1675US	:	PETITION UNDER
For: METHOD FOR INCREASED CONCURRENCY	:	
IN A COMPUTER SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 30 July 2002.

BACKGROUND

On 30 May 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.137(b) for revival of the present application. Applicant was afforded two months to file any request for reconsideration.

On 30 July 2002, applicant filed the present "Renewed Petition Under 37 CFR 1.137(b)." The renewed petition is found to also contain a petition under 37 CFR 1.47(a). Each item will be discussed in turn below.

DISCUSSION

A. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to items (1), applicant has previously authorized the charging of additional fees required under 37 CFR 1.16 and 1.17 to Deposit Account No.: 06-0600. Therefore, the required petition fee of $130.00 will be so charged.

409.03(c) Legal Representatives of Deceased Inventor Not Available

37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 CFR 1.42 and MPEP § 409.01. However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)).

In the present case, the inventor's original legal representative is deceased. Thus, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). Applicant must seek Mr. Sullivan's current legal representative. The petition provides no evidence that the current legal representative of the deceased inventor could not be found or reached after diligent effort or has refused to join in the present application. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

B. Petition Under 37 CFR 1.137(b)

As detailed in the decision mailed 30 May 2002, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2), (3) and (4) above.

Regarding item (1), a proper reply in the present case would have been an executed declaration compliant under 37 CFR 1.497(a)-(b) and, if the legal representative refused to sign or could not be reached after diligent effort, a grantable petition under 37 CFR 1.47(a). As applicant's petition under 37 CFR 1.47(a) has been dismissed for the reasons stated above, the required reply has not been filed.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Applicant's renewed petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of these petitions is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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1 9 FEB 2003

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In re Application of	:	DECISION ON PETITION
HERSH, et al.	:	
Application No.: 09/701,797	:	UNDER 37 CFR 1.47(a)
PCT No.: PCT/US99/12433	:	
Int. Filing Date: 03 June 1999	:	AND RENEWED
Priority Date: 03 June 1998	:	
Attorney Docket No.: PA1675US	:	PETITION UNDER
For: METHOD FOR INCREASED CONCURRENCY	:	
IN A COMPUTER SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicant's "Renewed Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)" filed 27 November 2002.

BACKGROUND

On 03 October 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.137(b) for revival of the present application. Applicant was afforded two months to file any request for reconsideration.

On 27 November 2002, applicant filed the present "Renewed Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)."

DISCUSSION

A. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As detailed in the decision mailed 03 October 2002, 37 CFR 1.47 applies only where a **known** legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, the inventor's original

legal representative is deceased. The declaration of Mr. Ruotolo states that he could not locate a current legal representative for inventor Sullivan's estate. Thus, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). Applicant must seek Mr. Sullivan's current legal representative. If inventor Sullivan's widow Joan Todd was the only heir to Mr. Sullivan's estate, applicant should seek the heirs to Ms. Todd's estate. In any event, in order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party as detailed above. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application. Accordingly, the renewed petition under 37 CFR 1.47(a) is dismissed.

B. Petition Under 37 CFR 1.137(b)

As detailed in the decision mailed 30 May 2002, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2), (3) and (4) above.

Regarding item (1), a proper reply in the present case would have been an executed declaration compliant under 37 CFR 1.497(a)-(b) and, if the legal representative refused to sign or could not be reached after diligent effort, a grantable petition under 37 CFR 1.47(a). As applicant's petition under 37 CFR 1.47(a) has been dismissed for the reasons stated above, the required reply has not been filed.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Applicant's renewed petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of these petitions is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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25 JUL 2003

#15

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In re Application of	:	
HERSH, et al.	:	
Application No.: 09/701,797	:	
PCT No.: PCT/US99/12433	:	DECISION ON RENEWED
Int. Filing Date: 03 June 1999	:	
Priority Date: 03 June 1998	:	PETITION UNDER
Attorney Docket No.: PA1675US	:	
For: METHOD FOR INCREASED CONCURRENCY IN A COMPUTER SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicant's "Renewed Petitions" filed 02 April 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 February 2003, applicant was mailed a decision dismissing applicant's petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b). Applicant was afforded two months to file any request for reconsideration.

On 02 April 2003, applicant filed the present "Renewed Petitions."

DISCUSSION

As detailed in the decision mailed 30 May 2002, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2), (3) and (4) above.

Regarding item (1), a proper reply in the present case would have been an executed declaration compliant under 37 CFR 1.497(a)-(b). Applicant presently submits that the combination of the declaration filed 27 November 2002 executed by inventor Clifford Hersh and

the declaration executed by Joan Todd filed on 16 January 2002 (Todd declaration) constitutes a proper reply pursuant to 37 CFR 1.67 and MPEP 602.02. Applicant states that, "[T]he PCT Legal Office has continuously rejected these declarations as imperfect citing the failure to list Clifford Hersh's citizenship and mailing address on Joan Todd's declaration as the imperfection." Applicant's statement is not correct. The declarations were not rejected because inventor Hersh's citizenship and mailing address were not included on Joan Todd's declaration, rather the Todd declaration contains deficiencies that could only be corrected by her or her legal representative. Specifically, 37 CFR 1.497(a)(3) requires that a declaration or oath identify each inventor and the country of citizenship of each inventor. The Todd declaration does not identify inventor Herbert Sullivan's citizenship and does not identify Mr. Hersh as a joint inventor. 37 CFR 1.497(a)(4) requires that, "the person making the oath or declaration believes that 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." Ms. Todd's declaration does not state that she believes Hersh to be an original and first inventor and thus does not comply with 37 CFR 1.497(a)(4).

The Todd declaration also contains defects under 37 CFR 1.63. For example, the declaration does not contain a statement from Ms. Todd that she has reviewed and understands the contents of the application, including the claims as amended by any amendment specifically referred to in the oath or declaration; and that she acknowledges the duty to disclose to the USPTO all information known to her to be material to patentability as required by 37 CFR 1.63.

Mr. Hersh, not being a legal representative of Ms. Todd, cannot correct the above noted deficiencies in Ms. Todd's declaration via a supplemental oath or declaration. Pursuant to 37 CFR 1.67(a)(2), a supplemental oath or declaration submitted for the purpose of correcting an error in a previously submitted oath or declaration must be signed by the inventor to the which the error or deficiency relates.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of these petitions is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 JAN 2004

#17

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1/15/04

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In re Application of	:	DECISION ON RENEWED
HERSH, et al.	:	
Application No.: 09/701,797	:	PETITION UNDER
PCT No.: PCT/US99/12433	:	
Int. Filing Date: 03 June 1999	:	37 CFR 1.137(b) AND 1.42
Priority Date: 03 June 1998	:	
Attorney Docket No.: PA1675US	:	AND PETITION UNDER
For: METHOD FOR INCREASED CONCURRENCY	:	
IN A COMPUTER SYSTEM	:	37 CFR 1.181

This decision is in response to applicant's "Supplement to Renewed Petitions Under 37 CFR 1.47(a) and 1.137(b)" filed 19 December 2003 and "Renewed Petitions Under 37 CFR 1.47(a) and 1.137(b)" filed 13 January 2004 in the United States Patent and Trademark Office (USPTO). The 13 January 2004 filing is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 25 July 2003, applicant was mailed a decision dismissing applicant's petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b). Applicant was afforded two months to file any request for reconsideration.

On 19 December 2003, applicant filed a "Supplement to Renewed Petitions Under 37 CFR 1.47(a) and 1.137(b)" referencing a previously filed renewed petition purportedly filed 25 September 2003.

On 13 January 2004, applicant filed a true and complete copy of the "Renewed Petitions Under 37 CFR 1.47(a) and 1.137(b)" originally filed 25 September 2003 along with a stamped postcard. Pursuant to 37 CFR 1.181 applicant has provided sufficient proof to show that the renewed petitions were in fact originally filed 25 September 2003 and were thus a timely response to the decision mailed 25 July 2003. (See discussion below).

DISCUSSION

I. Petition Under 37 CFR 1.181

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, application number and docket number. Among the items listed on the receipt is "Renewed Petitions Under 37 CFR 1.47(a) and 1.137(b)." The receipt is stamped "DT02 Rec'd PTO/PCT 25 SEP 2003." Thus, it is clear that applicant filed a renewed petition on 25 September 2003. As such, it is proper to accept the facsimile version filed on 13 January 2004 as a timely response to the decision mailed 25 July 2003. Thus, it is proper to grant applicant's petition under 37 CFR 1.181.

II. Renewed Petitions Under 37 CFR 1.137(b) 37 CFR 1.42

As detailed in the decision mailed 25 July 2003, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2), (3) and (4) above.

Regarding item (1), applicant has presently filed a combined declaration and power of attorney executed by Dominic Gaeta as legal representative to the estate of the deceased co-inventor, Herbert Sullivan. As detailed in 37 CFR 1.42, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent." Applicant has presently provided a compliant combined declaration and power of attorney thus satisfying item (1) above. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

Applicant's renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.42 are **GRANTED**.

This application will be given an international application filing date of 03 June 1999 and a date of **19 December 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091112

DATE : August 04, 2008

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction on Patent No.: 6786976

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:

/MICHAEL BARR/
Supervisory Patent Examiner.Art Unit 1792

FEB 0 9 200

#3

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In re Application of	:	
GROOMS et al.	:	
U.S. Serial No.: 09/701,933	:	
PCT Application No.: PCT/US98/17769	:	DECISION ON PETITION TO
Int. Filing Date: 25 August 1998	:	REVIVE UNDER 37 CFR 1.137(b)
Priority Date: 27 August 1997	:	
Attorney Docket No.: TB-104IA US	:	
For: CORTICAL BONE CERVICAL SMITH-ROBINSON FUSION IMPLANT	:	

The petition to revive under 37 CFR 1.137(b) filed 01 December 2000 in the above-captioned application is hereby GRANTED as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of $1240 has been paid and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of the Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

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DEC 15 2004

Paper No. 21

Steven Shumaker
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St. Paul, MN 55125

In re Application of George M. Johnson et al Serial No. : 09/702,002 Filed : October 30, 2000 For : Method and Device for Treating Gastroesophageal Reflux Disease	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed March 21, 2003 to review the holding of abandonment mailed February 6, 2003, for failure to respond to the Office action mailed July 31, 2002. The basis for the request is that applicant did not receive the communication mailed July 31, 2002. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed March 21, 2003 includes elements (1) and (2) but not element (3). Although an inspection of the file reveals that a change of address/power of attorney was made, presumably as a result of a request filed by assignee (no copy of the request is in the file), petitioner has provided a declaration signed by Mr. James W. Hill, M.D., applicant's former representative attesting to the fact that no such request was filed for the instant case. Accordingly, the communication in question was mailed to an incorrect address, and submission of element (3) is not necessary and will not be required. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to process a revocation of power of attorney filed September 2, 2004 and to have the Office action of July 31, 2002 re-mailed setting forth a new time period for response.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
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ak/11/01/04

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#18

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COPY MAILED

JAN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
William J. Flanagan, et al.	:	
Application No. 09/702,049	:	ON PETITION
Filed: October 30, 2000	:	
Attorney Docket No. ET00-007CIP	:	

This is a decision on the petition, filed January 13, 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 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3623 for further processing of the request for continued examination under 37 CFR 1.114 filed January 13, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
DEC 20 2006
OFFICE OF PETITIONS

MAUREEN STRETCH
26 CHARLES STREET
NATICK, MA 01760

In re Application of	:	
William J. Flanagan et al	:	
Application No. 09/702,049	:	ON PETITION
Filed: October 30, 2000	:	
Attorney Docket No. ET00-007CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed February 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 28, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#18

COPY MAILED

FEB 22 2005

OFFICE OF PETITIONS

MAUREEN STRETCH
26 CHARLES STREET
NATICK MA 01760

In re Application of	:	
William J. Flanagan et al	:	
Application No. 09/702,050	:	ON PETITION
Filed: October 30, 2000	:	
Attorney Docket No. ET00-005CIP	:	

This is a decision on the petition, filed February 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

After receipt of the file in the Office of petitions, the application file will be forwarded to Technology Center AU 3623.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Maureen Stretch
26 Charles Street
Natick MA 01760

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of Flanagan et al. Application No.09/702,050 Filed: October 30, 2000 Attorney Docket Number: ET00-005CIP Title of Invention: System and Method for Contract Authority	ON PETITION

This is a decision on the petition filed December 6, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed April 11, 2006. 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 July 12, 2006. A Notice of Abandonment was mailed on September 7, 2006.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#18

MAUREEN STRETCH
26 CHARLES STREET
NATIC, MA 01760

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of William J. Flanagan et al Application No. 09/702,062 Filed: October 30, 2002 Attorney Docket No. ET00-001CIP	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed January 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE: T. Hafiz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/07

TO SPE OF : ART UNIT 3623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/702062 Patent No.: 7149724

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

3694
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

COPY MAILED

MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Martin E. Davis et al :
Application No. 09/702,068 : ON PETITION
Filed: October 30, 2000 :
Attorney Docket No. DFI0012/US/2

This is a decision on the petition, filed May 24, 2004, under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 1654.

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
DW 03-03

Paper No. 6

INTERNATIONAL TRUCK
INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

COPY MAILED

MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Gerald L. Larson	:	
Application No. 09/702,151	:	ON PETITION
Filed: 30 October, 2000	:	
Attorney Docket No. D-5013	:	

This is a decision on the petition, filed on 23 October, 2002, under 37 CFR 1.137(a) which is first treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The application was held abandoned on 16 March, 2001, for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on 15 January, 2001, requiring an oath or declaration and surcharge for its late filing, which set a (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 September, 2002.

Petitioner asserts that a proper response, including the declaration and surcharge, was mailed to the USPTO on 1 February, 2001. In support of the petition, petitioner submits a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office. The document contains a certificate of mailing dated 1 February, 2001, and signed by petitioner's counsel, Jeffrey P. Calfa. Petitioners have also provided a copy of a postcard receipt itemizing the filing of a declaration and power of attorney and response to Notice of Missing Parts, identifying the application by serial number,

invention title, attorney docket number, and inventor's last name, bearing an Office-date stamp of 5 February, 2001.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment withdrawn. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee $110.00 is unnecessary. However, the surcharge of $130.00 is required. Therefore, counsel's deposit account, No. 14-0603, will be charged the balance due of $20.00.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,620,627	2003-09-16	09/702,188	2000-10-31	VDX5121USDIV1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-09-03
Name	Joseph F. Aceto	Registration Number	50701

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. 6620627
Issue Date: September 16,2003
Application No. 09702188
Filed: October 31,2000
Attorney Docket No. IMMU.FFAF

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-24-06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6859316 B1 (09/702 280

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.

Should References be inserted?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Attached are missing 892 + 1449 verifying that the references belong in the case.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2872
Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,859,316 B1

DATED : Feb. 22, 2005

INVENTOR(S) : Huang 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:

Cover Page

Item 56, insert the following references:

U.S. PATENT DOCUMENTS

4,570,064	2/1986	Nagatsuma et al.	250/231.1
4,671,613	6/1987	Buhrer	
5,291,571	3/1994	Kunikane, et al.	385/93
6,014,256 *	1/2000	Cheng	359/495

FOREIGN PATENT DOCUMENTS

WO	WO 90/15357	12/1990
EP	EP 0 863 425 A2	2/1998
EP	EP 0 959 375 A2	5/1999

Column 1

Line 67, after "sufficient" insert --to--

Column 3

Line 38, change "sa the id" to --said--

Column 4

Line 27, change "nun" to --mm--

Column 8

Line 53, change "loss" to --less--

Column 9

Line 1, change "tens" to --lens--

Column 11

Line 10, change "bean" to --beam--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,859,316 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

OCT 04 2006

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,859,316 B1

DATED : Feb. 22, 2005

INVENTOR(S) : Huang 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:

Column 12

Line 2, after "wherein" insert --:--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,859,316 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

OCT 04 2006

P15/REV03

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DEC 2 2005

TECHNOLOGY CENTER 2100

Jonathan O. Scott
Beyer Weaver & Thomas LLP
P.O. Box 70250
Oakland, CA 94612-0250

In re Application of: Chen, et al. Application No. 09/702,289 Attorney Docket No. TRNDPOO4 Filed: 10/30/2000 For: TRACKING AND REPORTING OF COMPUTER VIRUS INFORMATION	DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed September 6, 2005, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed May 4, 2005.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) On September 7, 2004, a non-final Office action, treating pending claims 1-22, was mailed.

(2) On December 7, 2004, a response to the non-final Office action, in which amendments to the pending claims, was filed. Note, claims 1, 11, 12 and 22 were amended.

(3) On May 4, 2005, a final Office action, treating pending claims 1- 22, was mailed.

(4) On August 18, 2005, a reply after final rejection was filed requesting reconsideration of the finality of the May 4, 2005 Office action under MPEP 706.07(d).

(6) On August 25, 2005, an interview summary was mailed (corresponding to the August 17, 2005 telephone interview). The finality of the previous Office action was discussed.

(7) On September 6, 2005, a notice of Appeal was filed.

(8) On September 6, 2005, the instant petition was filed.

(9) On September 7, 2005, an advisory action was mailed maintaining the finality of the previous Office action.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the May 4, 2005 office action. Specifically, Applicant maintains that the 35 USC 103 rejection, made in the final Office action, are in fact new grounds of rejection not necessitated by the amendment.

ANALYSIS

A non-final Office action was issued on September 7, 2004, including a rejection of claims 1-22 under 35 USC 103(a) as unpatentable over Hailpern et al. ('937) in view of Trcka ('345). An amendment and response to the first Office action was timely filed and received in the Patent and Trademark Office on December 7, 2004. In the amendment filed December 7, 2004, and with particular attention to (independent) claim 12, it is noted that the claim was amended on line 10, to include the phrase --***information from said client computers***-- after "the scan log". In the final Office action mailed May 4, 2005, the Examiner rejected claims 1-22 under Hailpern et al ('937) and further in view of Trcka et al. ('345) and Tso et al. ('803). Thus, the final Office action of May 4, 2005 introduces a new reference, Tso et al. ('803) and a new grounds of rejection. The amended language of claim 12 (identified above) was held by the Examiner as necessitating the new grounds of rejection presented in the final Office action (see "conclusion" on page 14 thereof).

In consideration of petitioner's remarks and in reviewing the **original recitation** found in claim 12, in particular on lines 7-13 thereof, the following recitations are noted "generating a scan log ***from each scanned client computer*** and sending the scan log back ... ***on each client computer***" and "processing ***the scan log information*** ...". Thus, the amendment recitation, i.e. the step of "receiving the scan log information from said client computers .... ", taken in context within the claim, finds support (and antecedent basis) in the original claim language found in claim 12.

As such, this represents a new ground(s) of rejection. As per MPEP §706.07 (d), a request for reconsideration for withdrawal of the finality of the Office action of May 4, 2005 (as premature) occurred in Applicant's remarks with the after final response (see page 2 thereof) filed on August 18, 2005. The examiner issued an advisory action on August 25, 2005, which denied the request by maintaining the finality of the last Office action.

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection ***not necessitated*** by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will ***not be made final*** if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

MPEP § 706.07(d) states in part that:
If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

MPEP § 706.07(e) states in part that:
When a final rejection is withdrawn, all amendments filed after the final rejection are

ordinarily entered.

CONCLUSION

A review of the file record indicates that the new ground(s) of rejection with respect to **at least** claim 12 under 35 USC 103(a), in the final Office action of May 4, 2005 was not necessitated by the new limitations and/or amendment presented on December 17, 2004. Thus, it is improper under current Office practice to make the May 4, 2005 Office action final as provided for under MPEP § 706.07(a).

For the above stated reasons, the petition to withdraw the finality of the final Office action of May 4, 2005 is **GRANTED**.

The application file is being forwarded to the tech. support staff to **WITHDRAW** the finality of the previous Office action and to **ENTER** the response filed August 18, 2005. The file will then be forwarded to the Examiner for appropriate action on the merits and prompt consideration of the response.

Any inquiries related to this decision may be directed to Specials Program Examiner Brian Johnson at (571) 272-3595.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paper No. None

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of
John W. Melby, Andrew F. Suhy, and Brent C. Parent
Application No. 09/702,363
Filed: October 31, 2000
Attorney Docket No. 65678-0031
Title: APPARATUS AND METHOD FOR TRACKING AND MANAGING PHYSICAL ASSETS

DECISION ON RENEWED PETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed February 14, 2005.

On October 31, 2000, the application was deposited, identifying John W. Melby, Andrew F. Suhy, and Brent C. Parent as joint inventors. On June 11, 2002, the original petition under 37 C.F.R. §1.47(a) was filed, which was granted via the mailing of a decision on June 17, 2002.

In the renewed petition, Petitioner indicates that he is "in receipt of the decision refusing status under 37 C.F.R. §1.47(a)[2]." This seems odd, as Petitioner included a copy of the decision of June 17, 2002 with this renewed petition, and the decision has clearly granted Petitioner's request.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 Renewed petition, page 1.

Since the petition has already been granted, the renewed petition is **DISMISSED AS INAPPROPRIATE**.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JOSEPH P. KINCART
CLIFFORD CHANCE
US LLP
31 WEST 52ND STREET
NEW YORK, NEW YORK 10019-6131

MAIL

FEB 08 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

paper No. 9

In re Application of: Brundobler Application No. 09/702,423 Filed: October 31, 2000 For: MODELING OPTION PRICE DYNAMICS	DECISION ON PETITION UNDER MPEP 711.03(C)(I)(A) and 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request under MPEP 711.03(C)(I)(A) and 37 CFR §1.181(a), filed November 18, 2004, to withdraw the holding of abandonment, mailed September 17, 2004.

The petition is **GRANTED.**

Applicable Prosecution History

February 02, 2004	Non-final rejection mailed (Paper No. 6).
September 17, 2004	Notice of Abandonment.
November 18, 2004	Petition to withdraw holding of abandonment of September 17, 2004, which includes the sworn statement of Melissa Scanzillo attesting to the non-receipt of the Office Action and a copy of portions of Melissa Scanzillo's docket report.

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. For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies

docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The instant application became abandoned for failure to timely respond to the non-final rejection of September 17, 2004. The statement (in the petition) referenced the accompanying docket report, but lacked a statement that the file jacket was also searched. Melissa Scanzillo attested to the fact that the file jacket was also searched, during a phone interview held on January 31, 2005. Thus, Applicants have provided a sufficient showing, as required by MPEP 711.03(C)(I)(A) and 37 CFR §1.181(a), that the Office Action had not been received.

In view of these facts, the abandonment of the application was clearly in error and is hereby **WITHDRAWN**. The office apologizes for any inconvenience this may have caused.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status) and to re-mail the Office Action of February 02, 2004 to Applicants.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

2/2/05

HMJ: 1/31/05

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JUN 0 1 2006

OFFICE OF PETITIONS

ERIC M. DOWLING
INTERLINK 731
P.O. BOX 02-5635
MIAMI FL 33102-5635

In re Application of	:	
Eric Morgan Dowling	:	
Application No. 09/702,455	:	ON PETITION
Filed: October 31, 2000	:	
Attorney Docket No. EMP-MULTI00ICIP1	:	

This is a decision on the petition, filed May 25, 2006, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2179 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of :
Glick, et al. :
Application No. 09/702,489 :
Filed: October 31, 2000 :
Attorney Docket No. BRM0002 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 9, 2004. The final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition fails to satisfy requirement (1) set forth above. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). The amendment submitted herewith has been reviewed by the examiner of record and it has been determined that the amendment does not place the application in condition for allowance.

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enc.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/702,489	GLICK ET AL.	
	Examiner	Art Unit	
	Vivek D. Koppikar	3626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *NONE*.
   Claim(s) objected to: *NONE*.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: *NONE*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The amendment filed on 6/27/07 does not overcome the prior art of record. .

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Glick, et al. :
Application No. 09/702,489 :
Filed: October 31, 2000 :
Attorney Docket No. BRM0002 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 9, 2004. The final Office action set a shortened three month period of time for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. While multiple submissions were received, none placed the application in condition for allowance, as advised by the multiple Advisory Actions previously mailed. Accordingly, the date of abandonment of this application is December 10, 2004. This decision precedes Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) (including fee and the submission required by 37 CFR 1.114); (2) the required petition fee; and (3) a proper statement of unintentional delay.

It is noted that petitioners have been charged twice for the petition fee. A refund has been requested from the Finance Office, Refund Section.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 3205.

This application is being referred to Technology Center AU 3626 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.

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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BAKER & DANIELS LLP
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INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Donald L. Glick	: DECISION ON REQUEST FOR
Patent Number	: 7627490	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/702,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1064** 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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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR

FEB 56 2002

PAPER NO. 5

In re Application of Dean R. Andrews et al. Serial Number: 09/702,619 Filed: October 31, 2000 For: ANTIMICROBIAL CUT-RESISTANT COMPOSITE YARN AND GARMENTS KNITTED OR WOVEN THEREFROM	: : : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02(IV)

This is in response to the petition filed January 8, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is GRANTED.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

W. Thad Adams, III
Adams, Schwartz & Evans, P.A.
2180 Two First Union Center
301 South Tryon Street
Charlotte, N.C. 28282

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Paper No. 8

PILLSBURY MADISON & SUTRO
SUITE 1200
725 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017-5443

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OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of	:
Robert G. Gally et al	:
Application No. 09/702,630	: DECISION GRANTING
Filed: October 31, 2000	: STATUS UNDER 37 CFR 1.47(a)
For: DISTRIBUTED	:
SWITCH/ROUTER SILICON ENGINE	:

This is in response on the request for reconsideration of petition under 37 CFR 1.47(a) filed October 1, 2001, in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed July 17, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(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.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

PER FLEMMING HANSEN
MAGLEGAARDS ALLE 120
2860 SOEBORG, DENMARK

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
Gally; Multanen and Hansen
Application No. 09/702,630
Filed: October 31, 2000
For: DISTRIBUTED SWITCH/ROUTER SILICON ENGINE

Dear Mr. Hansen:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
PILLSBURY MADISON & SUTRO
SUITE 1200
725 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017-5443

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 65

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

MAIL

SEP - 4 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
James D Gee, Jr.
Application No. 09/702,687
Filed: November 1, 2000
Title:SYSTEM AND METHOD FOR ADAPTIVELY INTERFACING DIFFERENT POD MODULES TO A NAVIGATION DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request To Withdraw from Representation filed June 14, 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 Power of Attorney to petitioner has been revoked by the applicant.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being mailed to petitioner at the address on the petition; however, all future communications from the Office will be directed to the below-listed correspondence address unless the Office receives proper notification otherwise.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Collen Law Associates, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NY 10562

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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AUG -9 2002

Paper No. 9

In re Application of
Cary Lucier
Application No. 09/702,825
Filed: November 1, 2000
Attorney Docket No. P66053US0

: DECISION ON PETITION

This is a decision on the petition filed on July 1, 2002 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated October 12, 2001. No fee is required for the petition.

The petition is granted.

Petitioner alleges that a timely reply to the Office letter in question was in fact filed. This allegation is supported by a copy of the reply, and by a copy of a filing receipt for the reply showing that the reply was in fact received in the Office on October 30, 2001. Based on this evidence, it is clear that the application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on October 30, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Jacobson Price Holman & Stern
Professional Limited Liability Company
The Jenifer Building
400 Seventh Street N W
Washington, DC 20004-2201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

NIXON & VANDERHYE, P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of
Takahashi, Yukino & Fukushima
Application No.: 09/702,828
Filed: November 1, 2000
Attorney Docket No.: 1858-23
For: AUTOMOBILE INTERIOR OR EXTERIOR TRIM MATERIAL

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed October 4, 2002.

The petition is granted.

Petitioners has shown that the legal representative of the deceased inventor 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 Hideo Nakano establishes that the legal representative of the deceased inventor, Ms. Yuko Takahashi, was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the legal representative of the deceased 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 forwarded to Technology Center 1700 for examination in due course.

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

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YUKO TAKAHASHI
RAIONZU-MANSHION WAKABA
FUJI KOUEN 13-1-301
FUJIMI 2-CHOME
TSURUGASHIMA-SHI SAITAMA 350-2201
JAPAN

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OCT 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Takahashi, Yukino & Fukushima : LETTER
Application No.: 09/702,828 :
Filed: November 1, 2000 :
Attorney Docket No.: 1858-23 :
For: AUTOMOBILE INTERIOR OR EXTERIOR TRIM MATERIAL

Dear Ms. Takahashi:

You are named as the legal representative of a deceased joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the legal representative of the deceased joint inventor, Mr Masuyuki Takahashi.

As a named legal representative you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication 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

ATTORNEY OF RECORD: NIXON & VANDERHYE, P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201

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MAR 1 8 2002

OFFICE OF PETITIONS

NIXON & VANDERHYE, P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201

In re Application of
Takahashi, Yukino & Fukushima
Application No.: 09/702,828
Filed: November 1, 2000
Attorney Docket No.: 1858-23
For: AUTOMOBILE INTERIOR OR EXTERIOR TRIM MATERIAL

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed December 18, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 1, 2000 without an executed oath or declaration and filing fees. Accordingly, on January 11, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing. Applicants' petition under 37 CFR 1.47(a), filed April 11, 2001, was dismissed on July 19, 2001 for failure to establish that the representative of the deceased inventor could not be reached.

In response, on December 18, 2001, a petition for a two month extension of time and required fee, the petition fee, and the instant petition were filed. A declaration of facts of Hideo Nakano, an employee of the partial assignee of the invention, accompanied the petition. Mr. Nakano explains that the representative of the deceased inventor, Ms. Yuko Takahashi, had been located, but through her conduct, she has refused to join in the filing of the above-identified application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1), (2), and (4) above.

As to item (1), Applicants have failed to establish that the representative of the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the representative of the deceased inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Unless the representative of the deceased inventor is presented with a copy of the application papers, she

cannot attest that she has "reviewed and understands the application papers" and therefore cannot not sign the declaration. Mr. Nakano's statement of facts does not establish that a complete copy of the application was mailed to Ms. Takahashi's last known address. Applicants have failed to establish that Ms. Takahashi was provided with a copy of the application papers. Accordingly, Rule 47 applicants have failed to show or provide proof that the representative of the deceased inventor has refused to sign the declaration.

Ms. Takahashi must have the complete application in her possession in order to make an informed decision as to whether she joins in its filing. When petitioner can show that Ms. Takahashi was mailed or received the complete application and that she either refused to sign the declaration or would not respond to the request that she sign the declaration, petitioners will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Ms. Takahashi is being asked to join in the filing of the application in a representative capacity. Her information (name, residence, post office, nationality) must be included in a supplemental declaration.

As to item (4), a clear statement of the legal representative's last known address is missing and is required.

Regarding finances, petitioners submitted $400.00 for a two month extension of time with the instant petition. However, petitioners were required to respond to the July 19, 2001 petition decision by September 19, 2001. The two month extension of time operated until November 19, 2001, but the instant petition was filed on December 18, 2001. Pursuant to petitioners' authorization, deposit account no. 14-1140 will be charged $520.00, which is the difference between the fee for a three month extension of time, $920.00, and the already submitted $400.00 fee for a two month extension of time.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARLINGTON, VA 22201

In re Application of:
Masayuki Takahashi, Toshinori
Yukino and Mitsuri Fukushima
Application No. 09/702,828
Filed: November 1, 2000
Title of Invention:
AUTOMOBILE INTERIOR OR EXTERIOR
TRIM MATERIAL

DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed April 11, 2001, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 1, 2000, without a fully executed oath or declaration. Along with the application, Petitioner submitted the instant Petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), the applicant has failed to establish the exercise of diligent effort in trying to find or reach the nonsigning inventor.

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. Emphasis supplied. See, MPEP § 409.03(d). At the very least, a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed

petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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 Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAY 31 2002

Paper No. 9

In re Application of
Kenichiro Suzuki
Application No. 09/702,881
Filed: November 1, 2000
Attorney Docket No. Q61326

DECISION ON PETITION

This is a decision on the petition filed on May 2, 2002 requesting that the examiner's holding of abandonment for failure to file a reply to the Office letter dated August 15, 2001 be withdrawn.

The petition is granted.

Petitioner alleges that no reply to the Office letter in question was filed because the Office letter in question was not received by counsel at the correspondence address of record. This allegation is supported in a manner which satisfies the requirements of the Notice published at 1156 OG 53 and discussed in MPEP 711.03(c) regarding establishing nonreceipt of Office correspondence. As the Office letter dated August 15, 2001 was not received at the correspondence address of record, this application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Patent Examining Group 3720 for re-mailing a complete copy of the Office letter dated August 15, 2001, together with all attachments thereto including references. Prior to mailing, the PALM correspondence address must be changed to agree exactly with the address as reproduced at the bottom of this Decision. The period for reply to the re-mailed Office action will run THREE MONTHS from the date upon which the action is re-mailed, and can be extended up to the statutory maximum of six months under the provisions of 37 CFR 1.136(a).

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Sughue, Mion, Zinn, MacPeak & Seas, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

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H. J. Staas
STAAS & HALSEY LLP
1201 New York Avenue, NW, Suite 700
Washington, D.C. 2005

MAILED

MAR 22 2006

Technology Center 2100

In re Application of:
Makoto ONOZAWA, et al.
Application No. 09/702,889
Filed: November 1, 2000
For: PLASMA DISPLAY APPARATUS AND MANUFACTURING METHOD

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed 21 December 2005 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed 27 April 2005.

The petition is **DISMISSED AS MOOT**.

On 21 December 2005, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner Fritz Alphonse and SPE Albert Decady in relation to the Final Office action mailed 27 April 2005. In the petition, applicant's counsel alleged that the rejection of claim 19 under 35 U.S.C. § 112, second paragraph was introduced for the very first time; thus, rendered the Final Office action premature.

On 17 January 2006, applicant filed a Request for Continued Examination (RCE) with the required fee, a preliminary amendment and a petition for one (1) month extension of time.

37 C.F.R. § 1.181(f) states, in part:

> 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 ...

37 C.F.R. § 1.114(d) states, in part:

> 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 ...

As stated in 37 C.F.R. § 1.181(f), the mere filing of a petition will not stay any period for reply that may be running against the application. A delay to render a decision on this petition is hereby regretted.

In view of 37 C.F.R. § 1.114(d) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and the amendment will be entered and considered.

Accordingly, the petition is **DISMISSED AS MOOT.**

The application file is being forwarded to the Technology Center support staff for processing and entering the RCE and amendment filed on 17 January 2006. Since the petition under 37 CFR § 1.181 requires no fee, Petitioner's Deposit Account No. 19-3935 will be credited $400.00 for the petition fee under 37 CFR § 1.182 paid on 23 December 2005.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING
DEPARTMENT
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Harry R. Chesley et al. :
Application No. 09/702,904 : ON PETITION
Filed: August 20, 2001 :
Attorney Docket No.: 0112300-898 :

This is a decision on the petition filed April 20, 2006 to withdraw the holding of abandonment for the above-identified application. The petition is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on February 8, 2006, for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 7, 2005 and which set a three month, non-extendable period for reply. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

Petitioner asserts that a response was filed January 4, 2006 and in support, petitioner has submitted, *inter alia*, a copy of the Issue Fee Transmittal and a USPTO Electronic Acknowledgement Receipt dated January 4, 2006 which shows that the issue fee was timely remitted. The Issue Fee Transmittal authorizes the payment of the issue fee from deposit account no. 50-0463.

A search of the application file and the USPTO records does not reveal receipt of the response, but the evidence submitted corroborates timely payment of the issue fee.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged. The issue fee in the amount of $1400 however will be charged to deposit account no. 50-0463

This matter will be referred to the Publishing Division for processing the instant application 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

Express Mail No.: EV 766606758 US

PATENT

First Named Inventor: Harry R. Chesley
Application No.: 09/702,904
Filed: October 30, 2000
Customer No.: 22971

Attorney Docket No.: 137778.01
Group Art Unit: 2141
Examiner: Djenane M. Bayard
Confirmation Number: 1666

Title: Shared and Private Object Stores for a Networked Computer Application Communication Environment

OIPE
APR 20 2006
PATENT & TRADEMARK OFFICE

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABAONDONMENT 37 CFR § 1.181(a)

Applicant hereby petitions under 37 CFR § 1.181(a) for withdrawal of the holding of abandonment of the above identified application, which was abandoned by the Office for failure to pay the issue fee. However, Applicant timely filed a response via electronic filing for payment of the issue fee. Applicant further requests entry of the comments on reasons for allowance that were also timely filed in the same response. This petition is timely filed since it is being filed within two months of the mailing date of the notice of abandonment, which was mailed on March 28, 2006.

The Notice of Allowance and Fee Due was mailed on Nov. 7, 2005 with a due date of Feb. 7, 2006.

Applicant filed a response on Jan. 4, 2006 via EFS-Web (due to participation in the USPTO's beta rollout of EFS-Web) including a transmittal letter, issue fee transmittal, and comments on the Examiner's reasons for allowance. A copy of the electronic acknowledgement receipt from EFS-Web as well as copies of all documents filed thereby are included.

Applicant respectfully submits that payment of the issue fee was timely made and the holding of abandonment should be withdrawn. Furthermore, since the comments on reasons for allowance were also timely filed, Applicant respectfully requests entry of such comments into the file history of the above identified application.

Any questions can be directed to Applicant's attorney at (425) 705-2684.

Respectfully submitted,

Microsoft Corporation

Date: April 20, 2006

By: Jeffrey L. Ranck

Jeffrey Ranck, Reg. No. 38,590
Attorney for Applicants
Direct telephone (425) 705-2684
Microsoft Corporation
One Microsoft Way
Redmond WA 98052-6399

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 via Express Mail No.: EV 766606758 US on the date shown below in an envelope addressed to: Mail Issue Fee, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

April 20, 2006
Date

Signature

Kate Marochkina
Type or Print Name

Application Number: 09/702,904
Attorney Docket Number: 137778.01
Filing Date: 10/30/2000

OIPE
JAN 2 0 2006
PATENT & TRADEMARK OFFICE

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)

22971 7590 11/07/2005

MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPARTMENT
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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.

Noemi TOVAR	(Depositor's name)
Noemi Tovar	(Signature)
1-4-06	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,904	10/30/2000	Harry R. Chesley	1026-032/MMM	1666

TITLE OF INVENTION: SHARED AND PRIVATE OJBECT STORES FOR A NETWORKED COMPUTER APPLICATION COMMUNICATION ENVIRONMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	02/07/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
BAYARD, DJENANE M	2141	709-203000

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 MICROSOFT CORPORATION
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)
MICROSOFT CORPORATION REDMOND, WA

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies

4b. Payment of Fee(s):
☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-0463 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature [signature] Date 1/4/06
Typed or printed name K. Alan Collins Registration No. 57,646

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 : 08-22-08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/702944 Patent No.: 6812238

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: SPW

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:

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South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE **Art Unit** 1625

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 12, 2010

TO SPE OF : ART UNIT 1625 - SPE Janet L. Andres

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/702,944 Patent No.: 6,812,238 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the to be inserted in CLAIM 3 (not claim 1 as shown on the 1050 submitted) be approved? (See COCIN date 06-29-2010)

_____
Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

/**Janet L. Andres**/ Art Unit 1625

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

RICHARD J. MUSGRAVE, ESQ.
HUSCH & EPPENBERGER, LLC
401 MAIN STREET, SUITE 1400
PEORIA IL 61602-1241

COPY MAILED

MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Tremblay & Tremblay
Application No. 09/702,957
Filed: October 31, 2000
Attorney Docket No. 00007-001
For: APPARATUS AND METHOD FOR ASSISTING MECHANICS WITH THE REMOVAL AND REPLACEMENT OF BRAKE DRUMS

On PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply to the restriction requirement, mailed September 6, 2001, which set a one month period for reply. Accordingly, the above-identified application became abandoned on October 7, 2001. A Notice of Abandonment was mailed on May 6, 2002. A petition to revive under 37 CFR 1.137(a), filed October 25, 2002, was dismissed on December 9, 2002 for failure to show that the entire delay in replying to the restriction requirement was unavoidable.

After the mailing of this decision, the application file will be forwarded to Technology Center 3700 for consideration of the response to the restriction requirement, filed February 6, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/23/2007

TO SPE OF : ART UNIT 2600 (2618)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,847,818

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file ***(PFW)**, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***ok to enter cancelled claims as req. in Cof C ?**

Ernest C. White, LIE (703) 308-9390x122

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 20

SQUIRE SANDERS & DEMPSEY
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Jose J. Garcia-Luna-Aceves et al	:	
Application No. 09/703,074	:	ON PETITION
Filed: October 31, 2000	:	
Attorney Docket No. 59643.00244	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 21, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 22, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 Revocation and New Power of Attorney filed December 9, 2004 has been entered and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 2663.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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

BRIAN T. RIVERS
NOKIA INCORPORATED
6000 CONNECTION DRIVE
MD 1-4-755
IRVING TX 75039

COPY MAILED

FEB 20 2002

OFFICE OF PETITIONS

In re Application of
Garcia Luna Aceves, et al.
Application No. 09/703,075
Filed: October 31, 2000
Attorney Docket No. NC30315

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed January 3, 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 in a Nonprovisional Application" (the "Notice") mailed January 12, 2001. 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 March 13, 2001. The instant petition was filed before a Notice of Abandonment could be sent.

The Notice required that an oath or declaration in compliance with 37 CFR 1.63 be filed, and a surcharge pursuant to 37 CFR 1.16(e) be remitted. Petitioner responded by filing a declaration and remitting the required surcharge.

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.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

02 OCT 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of:	:	
RHODES, Kenneth, et al.	:	
Application No. 09/703,094	:	DECISION ON PETITION
Filed: October 31, 2000	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WYBI-0014		

This is a decision on the "Petition To Accept Unintentionally Delayed Claim For Priority Pursuant To 37 CFR 1.78(a)(3)" filed September 16, 2005, seeking acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to prior-filed U.S. provisional and nonprovisional applications.

The petition is **DISMISSED AS MOOT**.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (A) an application for a design patent; (B) **an application filed under 35 U.S.C. 111(a) before November 29, 2000**; or (C) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

The instant nonprovisional application, filed October 31, 2000, is "an application filed under 35 U.S.C. 111 before November 29, 2000." Accordingly, the provisions of 37 CFR 1.78(a)(3) and (a)(6) for acceptance of a late claim for benefit do not apply to the subject nonprovisional application. The petition is therefore properly dismissed as involving a moot issue.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Richard M. Ross at (571) 272-3296.

All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1649 for appropriate action on the Request For Continued Examination (RCE) and the amendment filed September 16, 2005, including consideration of the claim under 35 U.S.C. 120 and 119(e) for benefit of the prior-filed applications.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

Adjustment Date: 10/04/2006 SBASHEIR
09/19/2005 AKELECH1 00000003 233050 09703094
01 FC:1454 1370.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA PA 19103-6996

MAILED
JUN 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,556,938	: DECISION ON APPLICATION FOR
Issued: July 7, 2009	: PATENT TERM ADJUSTMENT and
Application No. 09/703,094	: NOTICE OF INTENT TO ISSUE
Filed: October 31, 2000	: CERTIFICATE OF CORRECTION
Dkt. No.: 48503-0007-00 (230056)	:

This is a decision on the petition filed on April 6, 2009. As the instant decision on the application for patent term adjustment filed under 37 CFR 1.705(b) is being rendered after the issuance of the patent, this matter 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 636 days. The application for patent term adjustment asserts that the patent is entitled to additional adjustment pursuant to 37 CFR 1.702(b) for the Office's failure to issue the patent within three years of the application filing date.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 481 days.

The patent is entitled to an adjustment of 640 days pursuant to 37 CFR 1.703(a).

The patent is entitled to an adjustment of 523 days pursuant to 37 CFR 1.703(b). The adjustment commenced November 1, 2003, the day after the date that is three years after the date that the application was filed, and ended April 6, 2005, the day before the date that the RCE was filed.

The patent is not entitled to adjustment under 37 CFR 1.703(b) for the period of time beginning on the date that the Notice of Appeal was filed, September 8, 2004, and ending on the day before the date that the RCE was filed, April 6, 2005, or 211 days. See, 37 CFR 1.703(b)(4).

The patent is not entitled to adjustment for time periods under 37 CFR 1.702(a) that overlap with adjustment for time periods under 37 CFR 1.703(b). See, 37 CFR 1.703(b)(2)(A). Herein, the

period of adjustment totaling 640 days pursuant to 37 CFR 1.703(a) overlaps with the period of adjustment pursuant to 37 CFR 1.703(b) by 88 days, from January 9, 2005 to April 6, 2005.

The adjustment is reduced 383 days for applicant delay. In addition to the previous reductions totaling 319 days, the adjustment is properly reduced an additional 64 days in connection with the reply filed June 15, 2001 in response to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 12, 2001. In accordance with 37 CFR 1.704(b), the reduction commenced April 13, 2001, the day after the date that is three months after the date that the Notice was mailed, and ended June 15, 2001, the date that the reply was filed.

The reduction of 81 days in connection with the drawings filed April 6, 2009 has been restored, having been entered in error. The reduction of one day in connection with the issue fee submitted April 6, 2009 has been removed, as it overlaps with the reduction of 12 days accorded in connection with the Rule 312 amendment filed April 6, 2009.

In view thereof, the patent is entitled to an overall adjustment of 481 days (640 days under 37 CFR 1.702(a) + 523 days under 37 CFR 1.702(b) - 88 overlapping days pursuant to 37 CFR 1.703(b)(2)(A) - 211 days under 37 CFR 1.703(c)(4) – 383 days of applicant delay under 37 CFR 1.704).

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. See 37 CFR 1.323(a)(4).

The Office acknowledges the 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 Corrections 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 481 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,556,938

DATED : **July 7, 2009** **DRAFT**

INVENTOR(S) : Rhodes, 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 689 days

Delete the phrase "by 689 days" and insert – by 481 days--

Ex. M. Barankhah

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/703,196

Paper No.: _____

DATE : 6/20/05

TO SPE OF : ART UNIT ~~[illegible]~~ 2195

SUBJECT : Request for Certificate of Correction on Patent No.: ~~[illegible]~~ 6,854,117

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The line # for colum 14, lines 30, 38, 48, 56, 57 and 58 not correspond to the line # in patent.
The correct line # are lines 32, 40, 51, 59, 60 and 61. respectfully.

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE — **Art Unit** 2195

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

COPY MAILED

APR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Harrison G. Purvis, Lonnie E. Arnold, Jr. and	:	
Tony R. Matthews	:	DECISION NOTING JOINDER OF
Application No. 09/703,277	:	INVENTOR AND PETITION
Filed: October 31, 2000	:	UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. 24104A	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 14, 2001. The petition was recently forwarded to this office for review.

On January 9, 2006, petitioner submitted a Declaration executed by the previously non-signing inventor, Tony R. Matthews, in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being returned to Technology Center 3600 for further examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 11

MARTINE & PENILLA, LLP
710 LAKEWAY DR.
SUITE 170
SUNNYVALE, CA 94085

COPY MAILED

MAY 1 2 2003

OFFICE OF PETITIONS

In re Application of
Gektin et al.
Application No. 09/703,282
Filed: October 31, 2000
Attorney Docket No. Sun-P5363

DECISION ON PETITION

This is a decision on the petition filed January 2, 2003 (Certificate of Mailing December 27, 2002), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 18, 2002. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment was filed on June 17, 2002. However, in an Office action mailed September 11, 2002, applicant was advised that the amendment had been considered, but not entered. No proper reply having been received and no extension of time obtained, the application became abandoned effective June 18, 2002. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of an amendment, payment of the petition fee[1], and a statement of unintentional delay. The statement of unintentional delay is made by patent attorney William P. Wilbar on behalf of Sun Microsystems, Inc., assignee of record at the time of abandonment of the application. In addition, patent attorney Wilbar states that he has personal knowledge that the application was unintentionally abandoned. 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.

---

[1] The deficiency of $40, due to the increase in petition fees in October 2001, has been charged to Deposit Account No. 50-0612, as authorized.

Furthermore, the Office is relying on attorney Wilbar'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).

Receipt of the power of attorney, and consequent, change of correspondence address, filed March 26, 2003, is acknowledged and made of record.

The application file is being forwarded to Technology Center 3743 for consideration of the response filed January 2, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Ghulam Abbas Laljiani	:	
Application No. 09/703,312	:	DECISION ON PETITION
Filed: November 1, 2000	:	TO WITHDRAW
Attorney Docket No. BELL-0055/00166	:	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 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jonathan M. Waldman 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
421 W. Riverside Ave.
Suite 500
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 0 9 2004

TECHNOLOGY CENTER 2100

Fernandez & Associates LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

In re Application of:
James Michael O'CONNOR, et al.
Application No. 09/703,337
Filed: October 31, 2000
For: TERNARY CONTENT ADDRESSABLE MEMORY BASED MULTI-DIMENSIONAL MULTI-WAY BRANCH SELECTOR AND METHOD OF OPERATING SAME

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 15, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

application # 09/703,344

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/5/05

TO SPE OF : ART UNIT ~~2857~~ 2841

SUBJECT : Request for Certificate of Correction on Patent No.: 6856581

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.

PTO ERROR? IF NOT, CHANGES APPROVED?

Thank You For Your Assistance

DT
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:

Record correct - somehow the printer printed the patent incorrectly.

IB Pabe 8/17/05

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2841
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/21/06

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction on Patent No.: 6978456

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:

Title page:

1. "WO 0943989 A2" can not be changed to "EP 0943986 A2". It can be changed to "EP 0943989 A2" (see the IDS filed 12/14/2004, Pg. 2 of 2, item E)

Claims: 1. In line 1 of claim 7 (col. 11, line 10) can not change "claim 1" to claim 6. Claim 7 refers to claim 16, that was renumbered as claim 1.

WILLIAM THOMSON
SPE
SUPERVISORY PATENT EXAMINER

2194
Art Unit

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Anwar	:	
Application No. 09/703,502	:	NOTICE
Filed: October 31, 2000	:	
Attorney Docket No. PGLD-P01-011	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 16, 2008.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

In re Application of	:	
Arthur Zavalkovsky et al	:	
Application No. 09/703,504	:	ON PETITION
Filed: October 31, 2000	:	
Attorney Docket No. 50325-0128	:	

This is a decision on the petition under 37 CFR 1.314, filed June 15, 2005, to defer issuance of the patent.

The petition is Dismissed as Moot.

The above petition was submitted to allow sufficient time for the examiner to consider an IDS and initial form PTO-1449, submitted on June 10, 2004.

A copy of form PTO-1449 initialed and signed on April 26, 2005 is enclosed for your convenience.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Form PTO-1449

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NOV 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of:
David Rossum, et al.
Application No. 09/703,510
Filed: October 31, 2000
For: METHOD OF TRANSMITTING A ONE-DIMENSIONAL SIGNAL USING AN ANALOG TWO-DIMENSIONAL ANALOG MEDIUM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on October 04, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Schwegman, Lundberg, Woessner
& Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10

DATE : 9-1-04

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 6741289

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

Valerie Jackson
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:

—

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2614
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark C

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#8

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

MAR 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
William C. O'Neil, Jr. et al.
Application No. 09/703,562
Filed: November 1, 2000
For: METHOD AND SYSTEMS FOR APPLYING REBATES TO HIGHER EDUCATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on August 4, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in acting on this petition is regretted.

The petition is **DISMISSED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed August 4, 2003 fails to adequately meet requirements (C) and (E) above. With regard to requirement (C) a statement that a pre-examination search was made and *a specific listing of the field of search, including classes and subclasses used in the pre-examination search* is required. As to requirement (E) the petition lacks a detailed discussion of how the claimed subject matter is patentable over the references. The detailed discussion of each reference includes the statement "This patent does not teach distribution of monies to higher education accounts". However, this claim language is not found in independent claims 35 and 43.

SUMMARY: Petition to Make Special **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 3/4/04

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
Angelo Masciantonio et al	:	
Application No. 09/703,612	:	ON PETITION
Filed: November 2, 2000	:	
Attorney Docket No. 044959-5001	:	

This is a decision on the petition, filed January 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 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 2144 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).

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June 21, 2004

Paul J. Skwierawski
Antonelli, Terry, Stout, Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3801

JUN 21 2004

In re Application of:	:	
RAMESH, SRITHAR	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Application No. 09/703,723	:	
Filed: November 02, 2000	:	
For: SUPPLY NOISE FILTER FOR CLOCK GENERATOR	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 12, 2003.

The request is **dismissed** as moot.

A review of the application file record reveals that a proper revocation of power of attorney was filed on October 14, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot and must be dismissed.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: KENYON & KENYON
1500 K. Street, N.W.
Suite 700
Washington DC 20005

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United States Patent and Trademark Office
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Jeffrey R. Aamodt	: DECISION ON REQUEST FOR
Patent Number	: 7603632	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/703,748	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **382** 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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Mailed: 9/22/05

CHK
Paper No.

In re Application of Grate et al.
Serial No.: 09/703,755
Filed: November 1, 2001

Title: PHOTOPATTERNABLE SORBENT AND FUNCTIONALIZED FILMS

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed May 27, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the name of Glen C. Dunahm to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Cynthia H. Kelly
Supervisory Patent Examiner
TC 1700

John M. Bradshaw
WOODWARD, EMHARDT, MORIARTY, McNETT & HENRY LLP
111 Monument Circle, suite 3700
Indianapolis, IN 46204

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MAY 13 2004

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

JOSEPH SNYDER
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

In re Application of	:
Amanda J. Kiliaan et al	:
Serial No.: 09/703,798	: STATUS LETTER
Filed: November 2, 2002	:
Attorney Docket No.:	:

This is in response to the request to withdraw from representation in the above identified application.

The request has been filed by attorneys who are noit of record in this application and provide an inventor's name who is not of record in this application. It appears that an incorrect Serial Number has been utilized by the filing attorneys.

The request to withdraw is **DISMISSED**.

The request is being returned to the filing attorney as well as the attorney of reecord.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number, 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No.

R. Michael Ananian
FLEHR HOHBACH TEST ALBRITTON &
HERBERT LLP
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111-4187

MAIL

DEC - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Archibald, Jr. et al.
Application No. 09/703,822
Filed: October 30, 2000
For: SYSTEM AND METHOD TO COORDINATE DATA STORAGE DEVICE MANAGEMENT OPERATIONS IN A DATA STORAGE SUBSYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 23, 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 23, 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: Randall J. Bluestone, Esq.
IBM IP LAW DEPARTMENT
5600 Cottle Road, L2PA/010
San Jose, CA 95193

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

FLEHR HOHBACH TEST ALBRITTON &
HERBERT LLP
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111-4187

MAIL

NOV 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Archibald, Jr. et al.
Application No. 09/703,822
Filed: October 30, 2000
For: SYSTEM AND METHOD TO COORDINATE DATA STORAGE DEVICE MANAGEMENT OPERATIONS IN A DATA STORAGE SUBSYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 14, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, R. Michael Ananian is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613