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Mailed: JAN 30 2004

spg
Paper Number 14

In re application of
David P. Balding et al.
Serial No. 09/703,846
Filed: November 2, 2000
For: METHOD OF SELECTIVELY SHAPING HOLLOW FIBERS OF HEAT EXCHANGE CATHETER

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed on September 5, 2003. The petition requests withdrawal of the Notice of Abandonment mailed July 9, 2003, for failure to timely file new formal drawings as required in the Notice of Allowability, be withdrawn since the Notice of Allowability in fact did not require formal drawings.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the request cannot be granted. The applicant is correct in stating that the Notice of Allowability does not require formal drawings as stated in the Notice of Abandonment. It is clear that the Notice of Abandonment should have stated that the "application is abandoned in view of Applicant's failure to timely file a proper response to the Office letter mailed on March 26, 2003" - the incorrect box was checked on the Notice of Abandonment. The Office letter mailed March 26, 2003, clearly states that the drawings filed November 2, 2000 are not acceptable for the reasons identified on the attached PTO-948 and that "Applicant is given one opportunity to correct the informalities within a two month time period from the mailing date of this Notice. THIS TIME PERIOD IS NOT EXTENDABLE UNDER EITHER 37 CFR 1.136(a) OR 1.136(b). Failure to take corrective action within the set period will result in abandonment of the application.". Therefore, in view of the failure of the Applicant to correct the drawing informalities within the set two month time period from the mailing date of the March 26, 2003 Office letter it is clear that the application was properly abandoned.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Mailed: JUN 17 2004

spg
Paper Number 16

In re application of
David P. Balding et al.
Serial No. 09/703,846
Filed: November 2, 2000
For: METHOD OF SELECTIVELY SHAPING HOLLOW FIBERS OF HEAT EXCHANGE CATHETER

DECISION ON PETITION

This is a response to the letter filed February 9, 2004 entitled "Re: Reconsideration of Decision to Deny Petition to Revive U.S. Patent Application No. 09/703,846". The letter requests reconsideration of the petition decision mailed January 30, 2004 and asserts that the abandonment, as set forth in the Notice of Abandonment mailed July 9, 2003, be withdrawn since the applicant did not receive the Office letter mailed March 26, 2003.

DECISION

Since the requestor asserts that the applicant did not receive the Office letter March 26, 2003, 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 cannot be granted. As set forth in MPEP § 711.03(c) II - PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION:

> "The showing required to establish the 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 the practitioner's statement." (emphasis added)

The evidence presented is insufficient to establish that the Office letter mailed March 26, 2003 was not received at the attorney's correspondence address. The evidence provided includes a statement by the petitioner that the Office letter mailed March 26, 2003 was not received by the office of the petitioner and a statement that a search of the docket records was made and the results of such a search revealed that the Office letter mailed March 26, 2003 was not received, also included is a copy of the docket records, but the instant petition does not contain a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received.

For applicant's convenience a copy of the Office letter mailed March 26, 2003 is provided as an attachment hereto.

The petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Attachment: Office letter mailed March 26, 2003.

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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

Bruns, Doane Swecker & Mathis LLP
Post Office Box 1404
Alexandria, VA 22313-1404

Examiner

Art Unit | Paper Number
#12

Date Mailed:
3-26-03

Notice Regarding Drawings

Corrected drawings for the above-identified application, received in the USPTO on __ __ are still not acceptable for the reason(s) identified on the attached PTO-948. Applicant is given one opportunity to correct the informalities within a two month time period from the mailing date of this Notice. **THIS TIME PERIOD IS NOT EXTENDABLE UNDER EITHER 37 CFR 1.136(a) OR 1.136(b). Failure to take corrective action within the set period will result in abandonment of the application.**

ATTACHMENT: PTO-948 Notice of Draftsperson's Patent Drawing Review

RETURN CORRECTED DRAWINGS TO:

Box Issue Fee
Drawings
Commissioner for Patents
Washington, D.C. 20231

Bridget B. Gray
Office of Patent Publication,
Publishing Division
703-305- 8404

Form PTO 948 (Rev. 03/01) U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office Application No. 10/3,846

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 11/2/00 are:

A. ☐ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ☒ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be sumitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink. Color.
   - ___ Color drawings are not acceptable until petiton is granted. Fig(s) ___
   - ___ Pencil and non black ink not permitted. Fig(s) ___
2. PHOTOGRAPHS. 37 CFR 1.84(b)
   - ___ 1 full-tone set is required. Fig(s) ___
   - ___ Photographs may not be mounted. 37 CFR 1.84(e)
   - ___ Poor quality (half-tone). Fig(s) ___
3. TYPE OF PAPER. 37 CFR 1.84(e)
   - ___ Paper not flexible, strong, white, and durable. Fig(s) ___
   - X Erasures, alterations, overwritings, interlineations, folds, copy machine marks not accepted. Fig(s) All
   - ___ Mylar, velum paper is not acceptable (too thin). Fig(s) ___
4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
   - ___ 21.0 cm by 29.7 cm (DIN size A4)
   - ___ 21.6 cm by 27.9 cm (8 1/2 x 11 inches)
   - ___ All drawing sheets not the same size. Sheet(s) ___
   - ___ Drawings sheets not an acceptable size. Fig(s) ___
5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

   Top 2.5 cm Left 2.5cm Right 1.5 cm Bottom 1.0 cm SIZE: A4 Size

   Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm SIZE: 8 1/2 x 11

   Margins not acceptable. Fig(s) 2-4, 5, 6
   - X Top (T) X Left (L)
   - ___ Right (R) ___ Bottom (B)
6. VIEWS. 37 CFR 1.84(h)

   REMINDER: Specification may require revision to correspond to drawing changes.

   Partial views. 37 CFR 1.84(h)(2)
   - ___ Brackets needed to show figure as one entity. Fig(s) ___
   - ___ Views not labeled separately or properly. Fig(s) ___
   - ___ Enlarged view not labeled separetely or properly. Fig(s) ___
7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)
   - ___ Hatching not indicated for sectional portions of an object. Fig(s) ___
   - ___ Sectional designation should be noted with Arabic or Roman numbers. Fig(s) ___
8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)
   - ___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) ___
9. SCALE. 37 CFR 1.84(k)
   - ___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s) ___
10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)
    - X Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) All
11. SHADING. 37 CFR 1.84(m)
    - ___ Solid black areas pale. Fig(s) ___
    - ___ Solid black shading not permitted. Fig(s) ___
    - ___ Shade lines, pale, rough and blurred. Fig(s) ___
12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
    - X Numbers and reference characters not plain and legible. Fig(s) All
    - X Figure legends are poor. Fig(s) All
    - ___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s) ___
    - ___ English alphabet not used. 37 CFR 1.84(p)(2) Figs ___
    - ___ Numbers, letters and reference characters must be at least .32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig(s) ___
13. LEAD LINES. 37 CFR 1.84(q)
    - ___ Lead lines cross each other. Fig(s) ___
    - ___ Lead lines missing. Fig(s) ___
14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
    - ___ Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Sheet(s) ___
15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
    - ___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) ___
16. CORRECTIONS. 37 CFR 1.84(w)
    - ___ Corrections not made from prior PTO-948 dated ___
17. DESIGN DRAWINGS. 37 CFR 1.152
    - ___ Surface shading shown not appropriate. Fig(s) ___
    - ___ Solid black shading not used for color contrast. Fig(s) ___

COMMENTS

REVIEWER Elizabeth Gray DATE 3-18-03 TELEPHONE NO. ___

ATTACHMENT TO PAPER NO. 6

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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wak

Mailed:

11/17/05

In re application of
David P. Balding, et al.
Serial No. 09/703,846
Filed: November 2, 2000
For: Method Of Selectively Shaping Hollow Fibers Of Heat Exchange Catheter

DECISION ON PETITION

This is a response to the PETITION UNDER RULE 181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed October 25, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed July 9, 2003, be withdrawn since the applicant did not receive the Office Letter of March 26, 2003.

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, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - 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 applicant or any authorized representative of the applicant did not receive the Letter of March 26, 2003. The evidence provided includes a statement by the petitioner that the Office letter mailed March 26, 2003 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 mailed March 26, 2003 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed March 26, 2003 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status and after issue revision will be forwarded to the Office of Publications.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kirk M. Nuzum
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404

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

COPY MAILED

MAR 20 2006

OFFICE OF PETITIONS

In re Application of :
Balding et al. :
Application No. 09/703,846 : ON PETITION
Filed: November 2, 2000 :
Title of Invention: Method of Selectively :
Shaping Hollow Fibers of Heat Exchange
Catheter

This is a decision on the "Petition Under 37 CFR 1.137(a) to Withdraw Holding of Abandonment Based on Failure to Received Office Action" filed October 20, 2004.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED** as moot.

In light of the decision granting the withdrawal of the holding of abandonment mailed on November 17, 2005, the petition under 37 CFR 1.137(a) is no longer required.

No fee is due in connection with this matter. Petitioner is entitled to a refund of the previously submitted petition fee of $55.00. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision to should accompany any request for refund.

This decision is being forwarded to the Office of Patent Publication for further processing.

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
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S. H. DWORETSKY
AT&T CORP.
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Sheryl Leigh Woodward	:	
Application No. 09/703,857	:	DECISION GRANTING PETITION
Filed: November 1, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2000-0072	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 22, 2003 is accepted as having been unintentionally delayed.

The "Revocation of Associate Power and Appointment of New Associate Attorney and Change of Correspondence Address" submitted with the instant petition was filed after the June 25, 2004 effective date of a rule change eliminating the associate power of attorney practice (37 CFR 1.34(b)). Accordingly, although the paper has been placed in the file, the name of the practitioner listed on the power has not been made of record. However, the address of record has been changed as requested in the power.

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

This matter is being referred to Technology Center AU 2616 for appropriate action on the reply received of even date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WOMBLE CARLYLE SANDRIDGE & RICE
P.O. BOX 7037
ATLANTA GA 30357-0037

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Douglas A. Graham :
Application No. 09/703,941 : DECISION GRANTING PETITION
Filed: November 1, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 3688-030 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 21, 2004, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 2162.

Karen Creasy

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

cc:
JEFFREY R. MCFADDEN
ONE ATLANTIC CENTER, SUITE 3500
ATLANTA, GA 30357

25 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

C. Bruce Hamburg
Jordan & Hamburg, LLP
122 East 42nd Street
New York, NY 10168

In re Application of	:	
TAKAHASHI, et al.	:	
Application No.: 09/703,987	:	DECISION ON PETITION
PCT No.: PCT/JP99/05974	:	
Int. Filing Date: 28 October 1999	:	UNDER 37 CFR 1.181
Priority Date: 18 March 1999	:	
Attorney Docket No.: F-6666	:	
For: CROSSLINKED ACRYLIC MOISTURE ABSORBING FIBERS AND PRODUCTION METHOD THEREOF	:	

This decision is in response to applicant's "Petition Under C.F.R. 1.181 That This Application be Treated as U.S. National Stage of a PCT Application" filed in the United States Patent and Trademark Office (USPTO) on 23 April 2002.

BACKGROUND

On 01 November 2000, applicant filed the above referenced application. The application was processed as an application under 35 U.S.C. 111(a).

On 23 April 2002, applicant filed the present petition.

DISCUSSION

An examination of the papers filed 01 November 2000 finds that applicant filed the papers to the attention of "Box PCT" and indicated that, "THIS IS A NATIONAL STAGE OF PCT/JP99/05974 FILED October 28, 1999." In addition, the enclosed combined declaration and power of attorney lists PCT international application PCT/JP99/05974. As such it is clear that applicant provided sufficient information at the time of filing to indicate that the present application was intended to be a national stage application under 35 U.S.C. 371. Therefore it is proper to grant applicant's petition at this time. 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 been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of **28 October 1999** under 35 U.S.C. 363 and a date of **01 November 2000** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Leonard Smith
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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036

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FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Robert Phillips et al :
Application No. 09/704,050 : ON PETITION
Filed: November 1, 2000 :
Attorney Docket No. 48452-048 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 31, 2004.

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

This matter is being forwarded to Technology Center AU 2154 for further processing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/30/09

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 09704073 Patent No.: 6993568 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 (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: Please approve the CoC because (1) the changes in the specification are minor and do not alter the scope of the claimed invention, and (2) the changes of claim dependency in claims 11-12 were clear printing errors.

SPE

2454
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

OIPE IAP10 JUN 22 2009 PATENT & TRADEMARK OFFICE

09/704073

COFC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ludovic Hauduc et al.

Patent No.: 6,993,568

Issue Date: Jan. 31, 2006

Customer No.: 22971

Examiner: Lin, Wen Tai

Group Art Unit: 2154

Confirmation No.: 3930

Docket No: 154665.01

Title: SYSTEM AND METHOD FOR PROVIDING LANGUAGE LOCALIZATION FOR SERVER-BASED APPLICATIONS WITH SCRIPTS

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We are transmitting herewith the attached:

X Request for Certificate of Correction (1 pg.).
X Certificate of Correction Form - PTO-1050 (1 pg.)
X A return postcard.

Certificate
JUN 24 2009
of Correction

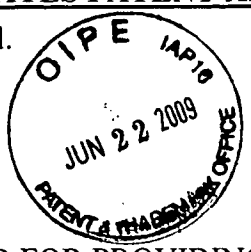
Customer Number: 22971

By /Henry Gabryjelski/
Attorney Name: Henry Gabryjelski
Reg. No.: 62828

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: Attn: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 16th day of June 2009.

Christine Hartness
Christine Hartness

IN UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Ludovic Hauduc et al. Examiner: Lin, Wen Tai

Patent No.: 6,993,568 Group Art Unit: 2154

Issue Date: Jan. 31, 2006 Confirmation No.: 3930

Customer No.: 22971 Docket No: 154665.01

Title: SYSTEM AND METHOD FOR PROVIDING LANGUAGE LOCALIZATION FOR SERVER-BASED APPLICATIONS WITH SCRIPTS

REQUEST FOR CERTIFICATION OF CORRECTION

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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.

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.

As the error is that of the Patent Office, it is believed that no fee is due.

Respectfully submitted,

Customer Number: 22971

Date March 18, 2009 By /Henry Gabryjelski/
Attorney Name: Henry Gabryjelski
Reg. No.: 62828

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: Attn: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 16th day of June 2009.

Christine Hartness

Christine Hartness

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 6,993,568

DATED : Jan. 31, 2006

INVENTOR(S) : Ludovic Hauduc et al.

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

In column 5, line 13, delete "in" and insert - - into - -, therefor.

In column 9, line 43, delete "on" and insert - - to - -, therefor.

In column 11, line 1, in Claim 11, delete "claim 15" and insert - - claim 10 - -, therefor.

In column 11, line 3, in Claim 12, delete "claim 15" and insert - - claim 10 - -, therefor.

MAILING ADDRESS OF SENDER:

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Atty Docket No: 154665.01

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT J. DEPKE
HOLLAND & KNIGHT LLP
55 W. MONROE, SUITE 800
CHICAGO, IL 60603

COPY MAILED

MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Todd Siegel et al :
Application No. 09/704,134 : ON PETITION
Filed: November 1, 2000 :
Attorney Docket No. 00688081 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 20, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

cc:

Robert J. Depke
Holland & Knight LLC
131 South Dearborn Street, 30th Floor
Chicago, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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

MAILED

APR 0 1 2003

Technology Center 2600

In re Application of :
Philip DesJardins et al :
Application No. 09/704,236 :
Filed: October 30, 2000 :
For: **SYSTEM AND METHOD FOR BLOCK ERROR CORRECTION IN PACKET-BASED DIGITAL COMMUNICATIONS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney/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 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: Jim H. Salter
Blakely Sokoloff Taylor and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

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

March 3, 2003

Robert D. Buyan
Stout, Uxa, Buyan & Mullins
4 Venture, Suite 300
Irvine, CA 92618

In re application of:
Alok Nigam DECISION ON PETITION
Serial No.: 09/704,261
Filed: November 1, 2000
For: STURELESS IMPLANTABLE DEVICE AND
METHOD FOR TREATMENT OF GLAUCOMA

This is a decision on the petitions received on August 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 timely manner to the Notice to File Missing Parts of Application mailed March 22, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned May 23, 200l.

On August 29, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed March 22, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing parts mailed March 22, 2001.

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 E. Day
Program Management Assistant
Office Initial Patent Examination

PATENT
Docket No.: 20011/1371

#12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Beck et al.	Examiner: B. Coleman
Serial No.	:	09/704,306	
Cnfrm. No.	:	4919	Art Unit: 1624
Filed	:	November 2, 2000	
For	:	NOVEL 4-PHENYL SUBSTITUTED TETRAHYDROISOQUINOLINES AND USE THEREOF	

RECEIVED
NOV 0 8 2002
OFFICE OF PETITIONS

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)

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

Dear Sir:

Pursuant to 37 CFR § 1.137(b), applicants hereby petition to revive the above-identified application. This application was unintentionally permitted to go abandoned following mailing of the September 11, 2001, office action. The entire delay in filing the enclosed Amendment from the due date of this office action until the filing of this petition was unintentional.

Enclosed herewith is a check for **$1,240** to cover the petition fee pursuant to 37 CFR § 1.17(m). Please charge any additional necessary fees or credit any overpayment to our Deposit Account No. 14-1138.

Respectfully submitted,

Dated: November 5, 2002

11/08/2002 AWONDAF1 00000007 141138 09704306
02 FC:1453 40.00 CH 1240.00 OP

Michael L. Goldman
Registration No. 30.727
Attorney for Applicants

NIXON PEABODY LLP
Clinton Square, P. O. Box 31051
Rochester, New York 14603
Telephone: (585) 263-1304
Fax: (585) 263-1600

R619290.1

Certificate of Mailing - 37 CFR 1.8(a)
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: U.S. Patent and Trademark Office P.O. BOX 2327 Arlington, VA 22202, on the date below.
11/5/02 Date
Wendy L. Barry

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Nixon Peabody
Clinton Square
PO Box 31051
Rochester, NY 14603

COPY MAILED

JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of
Beck et al.
Application No. 09/704,306
Filed: November 2, 2000
Attorney Docket No. 20011/1371

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 12, 2001.

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 1624 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

PENDORF & CUTLIFF
POST OFFICE BOX 20445
TAMPA, FL 33622-0445

COPY MAILED

DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Thomas Fechner et al :
Application No. 09/704,366 : ON PETITION
Filed: November 1, 2000 :
Attorney Docket No. 3926.017 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 11, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2001.

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

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

Wan Laymon
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

CHRISTOPHER P. HARRIS
TAROLLI, SUNDHEIM, COVELL & TUMMINO LLP
526 SUPERIOR AVENUE
SUITE 1111
CLEVELAND, OH 44114-1400

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Aull :
Application No. 09/704,417 : ON PETITION
Filed: November 1, 2000 :
Attorney Docket No. 15-0231 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed April 20, 2005. A response was filed June 23, 2005 however, by Advisory Action of July 14, 2005, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

All other requirements under 37 CFR 1.137(b) having been met, this application is being forwarded to Technology Center 2131 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/27/08

Paper No.: —

TO SPE OF : ART UNIT 3639

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/704,425 Patent No: 7,497,227 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: _____

_____

_____

_____

_____

_____ 3696
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. 6

MINTZ, LEVIN, COHN FERRIS
GLOVSKY & POPEO
11911 FREEDOM DRIVE, SUITE 400
RESTON, VA 20190

COPY MAILED

NOV 0 9 2001

OFFICE OF PETITIONS

In re Application of
DiDomenico & Rendahl
Application No.: 09/704,565
Filed: November 3, 2000
Attorney Docket No.: 23439-034-402
For: REMOTE EMISSIONS SENSING SYSTEM AND METHOD WITH A COMPOSITE BEAM OF UV AND IR RADIATION THAT IS NOT SPLIT FOR DETECTION

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 16, 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 3, 2000 without an executed oath or declaration. Accordingly, on March 16, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on October 16, 2001, a declaration executed by joint inventor Rendahl and Attorney Christopher J. Cuneo on behalf of Envirotest Systems Corporation (ESC), a company with proprietary interest in the invention, a statement establishing ESC's proprietary interest, the surcharge, a five month extension of time with required fee, and the instant petition and required fee were filed. A declaration of facts of Attorney Christopher Cuneo and a declaration of facts of Niranjan Vescio accompanied the petition. Attorney Cuneo states that Devin Morgan, an agent of the firm previously responsible for the prosecution of this application, sent a letter to inventor DiDomenico's last known address. It was returned marked as unclaimed. Niranjan Vescio states that the joint inventors are currently working for a direct competitor of ESC.

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) and (2) above.
As to item (1), Applicant has failed to establish that the inventor 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. Attorney Cuneo states that Devin S. Morgan sent a letter to Mr. DiDomenico at his last known address and it was returned unclaimed. The letter sent by Devin S. Morgan states that a copy of the issued patent, the reissue claims and the reissue declaration were enclosed. These documents do not pertain directly to the above-identified application. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Finding a refusal based on conduct is possible. However, more than one attempt to obtain the inventor's cooperation in the filing of the application is typically necessary.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted with the instant petition was signed by one of the inventors. Attorney Christopher Cuneo signed an addendum to the declaration on behalf of ESP, a company with proprietary interest.

An empowered representative of an entity with proprietary interest may sign the declaration only when no inventor is available. In this instance, inventor Rendahl signed the declaration. Therefore, the declaration with Attorney Cuneo's signature is not acceptable.

The signing inventor must sign the declaration for the application of behalf of himself and on behalf on the non-signing inventor. The declaration will be acceptable if the signing inventor signs in his signature block and the signature block of the non-signing inventor is left blank **OR** if the signing inventor signs a document that states he is signing on behalf of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(a) applicant on behalf of Mr. DiDomenico is REQUIRED. See MPEP 409.03(a).

It appears that petitioner has submitted documents with the intention of having an entity with a proprietary interest intervene and make the application on behalf of the non-signing inventor. Petitioner is reminded that when one joint inventor signs, the provisions of 37 CFR 1.147(a) apply. Where 37 CFR 1.137(a) is available, application cannot be made under 37 CFR 1.147(b). MPEP 409.03(b)

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON, VA 20190

COPY MAILED

JUN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Didomenico et al. : DECISION ON PETITION
Application No. 09/704,565 :
Filed: November 3, 2000 :
Attorney Docket No. 47382.000110 :

This is a decision on the "Petition under 37 C.F.R. § 1.53(e)," filed October 10, 2002, requesting that the above-identified application be accorded a filing date of November 3, 2000.

Application papers in the above-identified application were received on November 3, 2000. A review of the record reveals that these papers did not include drawings; however, as the application contained "method" claims, the Office of Initial Patent Examination (OIPE) accorded the application papers a filing date[1]. A filing receipt was mailed to applicants, stating that the application had been accorded a filing date of November 3, 2000 with "0" drawings present in the application.

In response, applicants filed a request for corrected filing receipt. By Notice mailed October 1, 2002, the Office advised applicants that a Notice mailed May 23, 2002 granting this request was withdrawn as sent in error. A request to correct a filing date by request for corrected filing receipt is improper. Moreover, the October 1, 2002 mailing included a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings, and stating that a request for review of this notification was by way of petition.

Petitioner timely responded with the instant petition (and petition fee). Petitioner asserts that two (2) sheets of drawings were submitted with the original application that was filed on November 3, 2000. In support thereof, petitioners submitted a copy of their date-stamped postcard receipt.

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. A review of the postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 3, 2000, 2) it specifically identifies the items being filed, including "Drawings (2 sheets) labeled Figures 1 and 2," and 3) it lacks any annotation of nonreceipt of

[1] It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 2 sheets of drawings, were filed on November 3, 2000.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-0311, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 3, 2000, using the application papers received in the Office and presently accorded that date; and figures 1-2 resupplied on petition filed October 10, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
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. 11

JAMES G. GATTO
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO
11911 FREEDOM DRIVE, SUITE 400
RESTON, VA 20190

COPY MAILED

MAY 1 4 2002

OFFICE OF PETITIONS

In re Application of :
John Didomenico et al :
Application No. 09/704,565 :DECISION GRANTING STATUS
Filed: November 3, 2000 :UNDER 37 CFR 1.47(a)
Attorney Docket No. 23439-034-402 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 8, 2002, and to the paper filed April 3, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 Karen Creasy at (703) 305-8859.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6444728
Issue Date: September 3,2002
Application No. 09704605
Filed: November 3,2000
Attorney Docket No. 199161USO

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

This is a decision on the electronic petition, filed February 28,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 28,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6444728	2002-09-03	09704605	2000-11-03	199161USMF

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	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2007-02-28
Name	C. Irvin McClelland	Registration Number	21124

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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)
6719434	2004-04-13	09704639	2000-11-01	160702-0014

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	/Christopher A. Vanderlaan/	Date (YYYY-MM-DD)	2008-11-04
Name	Christopher A. Vanderlaan	Registration Number	37747

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. 6719434
Issue Date: April 13,2004
Application No. 09704639
Filed: November 1,2000
Attorney Docket No. D-8139

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

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

The petition is **GRANTED**.

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

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

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

Paper No. 4

David J. Edmondson
Blank Rome Comisky & Mccauley, LLP
900 17th Street, N.W.
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Washington, D.C. 20006

MAILED

JUL 3 1 2002

Technology Center 2100

In re Application of: Walter M. Stewart et al.	)	**DECISION ON PETITION**
Application No. 09/704,790	)	**FOR ACCELERATED**
Filed: November 3, 2000	)	**EXAMINATION UNDER**
For: E-MAIL VIRUS PROTECTION	)	**M.P.E.P. §708.02(VIII)**
SYSTEM AND METHOD	)	

This is a decision on the petition, filed June 7, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(I);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that 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 point out how the ***claimed subject matter is patentable over the references.***

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 6

David J. Edmondson
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900 17th Street, N.W.
Suite 1000
Washington, D.C. 20006

MAILED

SEP 0 4 2002

Technology Center 2100

In re Application of: Walter M. Stewart et al.	)	**DECISION ON PETITION**
Application No. 09/704,790	)	**FOR ACCELERATED**
Filed: November 3, 2000	)	**EXAMINATION UNDER**
For: E-MAIL VIRUS PROTECTION	)	**M.P.E.P. §708.02(VIII)**
SYSTEM AND METHOD	)	

This is a decision on the request for reconsideration, filed August 2, 2002 of the decision mailed July 31, 2002 denying the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(I);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission filed August 2, 2002, corrects the deficiency noted in the previous decision of mail date July 31, 2002. The combined submissions now meet all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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GERD W. KRAMER
RICHARD-WAGNER-STR. 16
LEIMEN , DEX 69181
GERMANY

COPY MAILED

APR 17 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Gerd W. Kramer
Application No. 09/704,803
Filed: November 2, 2000
For: AUTOMATIC PROGRAMMING

: DECISION GRANTING PETITION
: TO ACCORD A FILING DATE OF
: NOVEMBER 2, 2000

This is a decision on the "Petition to correct the Filing-Date" filed February 21, 2001 with attachments, which is being treated as a petition to accord the above-identified application a filing date of November 2, 2000, rather than the initially accorded filing date of November 3, 2000. In view of the action requested, the petition is being treated as one filed under 37 CFR 1.183 requesting waiver of the 37 CFR 1.6(d) prohibition of new patent application filings by facsimile transmission.

For the reasons set forth hereafter, the petition is **GRANTED** such that the above-identified application is accorded a filing date of November 2, 2000.

Petitioner alleges, in effect, that the chain of events leading to his facsimile submission of the above-identified application on November 2, 2000 warrants a waiver of the prohibition of facsimile filing of new patent applications. The relevant chain of events documented by the petition are as follows:

(1) On October 31, 2000 petitioner deposited the application with United Parcel Service, Inc. (UPS) in Heidelberg, Germany for "UPS Worldwide Express" delivery service to the U.S. Patent and Trademark Office (USPTO) with a guaranteed delivery date of November 1, 2000. As shown by a copy of petitioner's UPS mailing label (provided with the petition), petitioner clearly wrote the address specified at 37 CFR 1.1(a) for mailing an application to the USPTO.

(2) A printout of the UPS internet tracking data (also provided with the petition), indicates that the package containing the application arrived at a UPS sorting station in Alexandria, Virginia the following day (November 1, 2000) at 1:52 p.m.

(3) The UPS internet tracking data also shows that despite the proximity of the Alexandria, Virginia sorting station to the Arlington, Virginia USPTO location, UPS sorting station personnel failed to recognize the address on the application package as that of the USPTO (e.g., UPS tracking data for November 2, 2000 characterizes the proper 37 CFR 1.1(a) address as an "Incomplete Address").

(4) Further documented by the UPS internet tracking data is that on November 2, 2000 the application package was routed from one incorrect delivery location in Washington, D.C. to another incorrect delivery location in Baltimore, Maryland; and that the package was finally rerouted to the USPTO on November 3, 2000 where the package was received later that day.

It is noted that the mailed application was properly accorded a filing date of November 3, 2000 as the application was received that day in the U.S. Patent and Trademark Office (USPTO).

On November 2, 2000 at 7:33 p.m. EST (at a time when UPS tracking data available over the internet indicated repeated UPS mishandling of the application), petitioner submitted by facsimile duplicate application papers to the USPTO. On November 7, 2000, however, the duplicate application papers were properly returned to petitioner by Office personnel with a letter notifying petitioner that such facsimile transmitted papers are not processed by the USPTO as an application filing.

Petitioner requests a filing date of November 2, 2000 for the application based on his facsimile submission that day of duplicate application papers in view of the chain of events leading thereto. Petitioner is concerned that any foreign priority benefit available to the application under 35 USC 119 to a corresponding German patent application filed November 2, 1999 will be lost unless the request is granted.

On March 20, 2001, in response to a telephone communication from USPTO Legal Advisor James Engel, petitioner resubmitted by mail the duplicate application papers originally submitted by facsimile on November 2, 2000. A review of those papers reveals that they are identical to the application papers received in the mail on November 3, 2000. It is noted that prior to the date of this decision, petitioner also filed the necessary filing fee for the application as well as the required fee for this petition.

As set forth at 37 CFR 1.6, the USPTO does not permit the filing of new application papers by facsimile. Therefore, the USPTO will not generally entertain a petition to accord an application filing date based upon a facsimile transmission of application papers. The following factors, however, are considered to constitute an "extraordinary situation" in terms of 37 CFR 1.183 so as to militate in favor of granting petitioner's request: (1) the particular chain of events documented by the petition that led up to petitioner's facsimile transmission of duplicate application papers; (2) petitioner's status as a *pro se* applicant; (3) the availability of the above-described UPS tracking data over the internet at the time petitioner made the facsimile transmission *pro se*; (4) the misidentification of the USPTO address as an "Incomplete Address" by entries made into UPS internet tracking data; and (5) the foreign priority patent rights that are at stake in the application.

Receipt is acknowledged of an information disclosure statement and a certified copy of the foreign priority document filed February 2, 2001.

The duplicate application papers transmitted by facsimile on November 2, 2000 have been placed in the application file, however, the application papers received on November 3, 2000 will be used for examination purposes.

The application is being forwarded to Initial Patent Examination Division for further processing with a filing date of **November 2, 2000**, using the application papers received on November 3, 2000.

Any inquiries related to this decision should be directed to James Engel at (703) 308-5106.

Robert J. Spar
Director, Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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United States Patent and Trademark Office
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Paper No. 12

GERD W. KRÄMER
RATHAUSSTR.1
LEIMEN, 69181
GERMANY

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Gerd W. KRÄMER
Application No. 09/704,803
Filed: November 2, 2000
Title of Invention:
AUTOMATIC PROGRAMMING

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1], filed October 21, 2004, to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned January 28, 2004 for failure to timely pay the issue fee on or before January 27, 2004. This decision precedes the mailing of the Notice of Abandonment.

Pursuant to 37 CFR 1.137(a) however, the instant petition lacks items (1) and (2) of the regulation. Effective October 1, 2004 the petition fee and the issue fee, for a small entity, were both set at $685.00 each. Therefore, and since no authorizations for debiting a

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

have not been paid. The fees due are the fees set at the time the application file is revived.

In view thereof, a petition fee and issue fee in the amount of $685.00, each, is due before a petition on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as the issue fee and a petition fee, each in the amount of $685.00 have been paid.

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

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

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P.O. Box 1450
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GERD W. KRÄMER
RATHAUSSTR.1
LEIMEN, 69181
GERMANY

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Gerd W. KRÄMER
Application No. 09/704,803
Filed: November 2, 2000
Title of Invention:
AUTOMATIC PROGRAMMING

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a)[1], filed November 30, 2004 and supplemented February 8, 2005, to revive the above identified application.

The renewed 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.

This application became abandoned January 28, 2004 for failure to timely pay the issue fee on or before January 27, 2004. A petition to revive was filed October 21, 2004 and the fee for the petition was received October 27, 2004. The petition was dismissed in a decision mailed November 17, 2004 because the petition lacked the proper issue fee.

The decision incorrectly indicated that both the issue fee and petition fee under 37 CFR 1.137(a) were lacking. On the date of the decision, November 17, 2004, the issue fee for

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

a small entity was set at $685 and the unavoidable petition fee for a small entity was set at $55, as petitioner has so ably stated. The decision was incorrect as it related to the amounts due and we offer our most humble apologies for the typographical error. However, the decision was correct in stating that the funds received were deficient.

Petitioner argues that he directed his bank to make the payment of $720.00, however, by wire transfer on October 27, 2004, the finance account for the above identified patent application was credited with $714.00, a copy of the check is attached for your review. Apprarantly, petitioner's bank must have charged a fee for making the transfer. Of the amount received, $55.00 has been applied to the petition fee and the remaining $659.00 has been applied as a partial payment for the issue fee.

For the record, as of October 1, 2004, the issue fee was set at $685.00. The fee due is determined by the fees in effect at the time of submisison of the payment. We are sorry for any misinformation you received from the USPTO but a delay in properly rendering fees due 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.[2] 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.[3] Be reminded that a requirement for proceeding under the unavoidable standard is that the 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. That does not mean that the time period ends at January 27, 2004 when the issue fee was due.

The issue fee is a statutory requirement and cannot be waived or the time period for payment of such cannot be extended. Thus, in view of the above and pursuant to 37 CFR 1.137(a), the instant petition still lacks items (1). The application will remain in an abandoned status until such time as the balance of the issue fee ($26.00) has been paid. Also, a review of the record does not reveal that the $130.00 paid for a filing date petition back in February 2001 is of record.

Finally, while we are not in a position to discuss the merits of the petition under the unavoidable standard until the petition fee is paid in full, we will advise that the petition filed October 21, 2004 references a "rescript from the social welfare office" to prove petitioners

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[2] 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).

[3] 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).

ability or inability to pay the issue fee when due. The requirement for proof of financial hardship is a complete showing of petitioner's, or the party responsible for payment of the maintenance fee's, financial condition including all income, expense, assets, credit, and obligations which made the delay unavoidable. Petitioner must provide verified copies of any available documents or records. The document attached to the petition is in a language other than English and thus cannot serve as proof of anything unless it is translated. Even then we cannot state for certain that it will be conclusive evidence of petitioner's financial situation or for the matter for which it is being presented, only that since it was presented it should at least be in English so that it can be considered.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

If petitioner does not think that he can prevail under the unintentional standard of review, petitioner may wish to consider filing a petition under 37 CFR 1.137(b),[6] which now

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[4] 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).

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] 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:

provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). As of the date of this decision, the petition fee for a petition under 37 CFR 1.137(b) is set at $750.00. The fees already paid cannot be applied to that fee since petitioner has already received consideration for the petition under 37 CFR 1.137(a).

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: 1) Copy of Check received October 27, 2004
2) "Rescript" in language other than English, received October 21, 2004

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(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©)).

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GERD W. KRÄMER
RATHAUSSTR.1
LEIMEN, 69181
GERMANY

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Gerd W. KRÄMER
Application No. 09/704,803
Filed: November 2, 2000
Title of Invention:
AUTOMATIC PROGRAMMING

ON PETITION

This is a decision on the twice renewed petition under 37 CFR 1.137(a)[1], filed April 8, 2005, to revive the above identified application.

The renewed petition is **GRANTED**.

This application became abandoned January 28, 2004 for failure to timely pay the issue fee on or before January 27, 2004. A petition to revive was filed October 21, 2004 and the fee for the petition was received October 27, 2004. The petition was dismissed in a decision mailed November 17, 2004 because the petition lacked the proper issue fee. A renewed petition was filed November 30, 2004 and was dismissed in a decision mailed February 8, 2005 because the fee for the issue fee still had not been remitted in the statutory amount. It appears that the wire transfer agency used to transmit the funds from Germany to the United States deducted a wire transfer fee and thus the amount received in the USPTO was deficient.

Comes now the instant petition with the balance due of $26.00 and the petition is being treated on its merits with respect to the unavoidable delay in paying the issue fee.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

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]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner argues a financial inability to pay the issue fee when it was due January 27, 2004. In support of the argument, petitioner references a "rescript from the social welfare office" to prove petitioners ability or inability to pay the issue fee when due.

The requirement for proof of financial hardship is a complete showing of petitioner's, or the party responsible for payment of the maintenance fee's, financial condition including all income, expense, assets, credit, and obligations which made the delay unavoidable. Petitioner has provided copies of the "rescript" and of his bank statement. The rescript is a statement of entitlement to receive social welfare benefits and shows the amount of the monthly benefit. The bank statement, although in German with some English translation and although it quotes the currency in pounds versus U.S. dollars, shows the amount of the rescript as a deposit and of amounts deducted for expenses such as Rent and Electricity.

Petitioner indicates that he has been dependant upon "social welfare" since 2002 and the proof submitted covers a period prior to the date the issue fee was due, 2003, through

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

2004. Petitioner has even showed that the social welfare benefit was not at times enough to cover his living expenses and that he had to make alternative living arrangements. This information was offered to show that his failure to pay the issue when it was due to an financial inability to do so and that the delay in paying the issue fee was "unavoidable".

Considering the facts and circumstances of this case, in this instance, it is concluded that petitioner has now made an adequate showing of "unavoidable delay within the meaning of 37 CFR 1.137(a).

This matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Sterne Kessler Goldstein & Fox PLLC
1100 New York Avenue NW, Suite 600
Washington DC 20005-3934

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
HOWARD, et al. :
Application No. 09/704,809 : DECISION ON PETITION
Filed: November 2, 2000 : TO WITHDRAW
Attorney Docket No. 40670/LTR/B600 : 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 30, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner on behalf of all attorneys of record. 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

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

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Daniel H. Howard, et al. :
Application No.: 09/704,809 : ON PETITION
Filed: November 2, 2000 :
Attorney Docket No.: 1875.0760001 :

This is a decision on the petition, filed April 3, 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 January 7, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2616 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

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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OCT 0 5 2006

OFFICE OF PETITIONS

THE LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL, SUITE 330
SUNNYVALE, CA 94087

In re Patent No. 7,010,730 :
Issue Date: March 7, 2006 :
Application No. 09/704,888 : NOTICE
Filed: November 1, 2000 :
Patentee(s): Richard C. Jaworski, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 1, 2006. 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

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MAR 16 2004

TECHNOLOGY CENTER 2100

Paper No. 10

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Richard HAYTON, et al.
Application No. 09/704,896
Filed: November 2, 2000
For: METHODS AND APPARATUS FOR INCORPORATING A PARTIAL PAGE ON A CLIENT

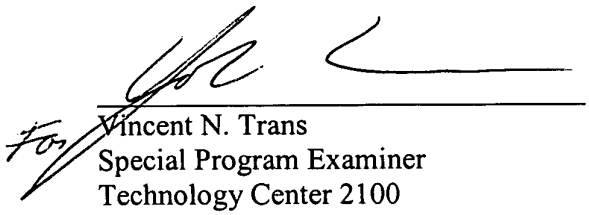
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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

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

The request is **GRANTED.**

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



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

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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Paper No. 8

MAILED

MAR 2 3 2004

Technology Center 2100

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Hayton et al.
Application No. 09/704,904
Filed: November 2, 2000
For: METHODS AND APPARATUS FOR REGENERATING AND TRANSMITTING A PARTIAL PAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 04, 2004.

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

The request filed March 04, 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

JM

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

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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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
09/704,991	11/01/2000	2623	3078	074451.P042X2	46	91	15

CONFIRMATION NO. 7119

CORRECTED FILING RECEIPT

OC000000013820418

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/16/2004

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)

Edward L. Schwartz, Sunnyvale, CA;
Ahmad Zandi, Morgan Hill, CA;
Alexander Keith, Santa Clara, CA;
Michael J. Gormish, Redwood City, CA;
Martin Boliek, San Francisco, CA;

Power of Attorney:

Michael Mallie–36591

Domestic Priority data as claimed by applicant

This application is a CIP of 08/847,074 05/01/1997 ABN
which is a CIP of 08/643,268 05/03/1996 PAT 5,966,465
which is a CIP of 08/498,036 06/30/1995 PAT 5,867,602
which is a CIP of 08/310,146 09/21/1994 PAT 5,748,786

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2001

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US09/704,991

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

Non-Publication Request: No

Early Publication Request: No

Title

Reversible embedded wavelet system implementation

Preliminary Class

382

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).

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601 WEST FIRST AVENUE
SUITE 1300
SPOKANE WA 99201

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vladimir M. Segal et al :
Application No. 09/705,101 :
Filed: November 2, 2000 :
Attorney Docket No. 30-5076(4015) :

This is a decision on the petition, filed June 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 1742 will consider the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID T. YANG
MORRISON & FOERSTER LLP
555 WEST FIFTH STREET
LOS ANGELES, CA 90013-1024

COPY MAILED

NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Alan E. Reamon :
Application No. 09/705,134 : NOTICE
Filed: November 2, 2000 :
Attorney Docket No. PD-PPW231

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 2817.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David T. Yang
Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Reamon et al. :
Application No. 09/705,134 : DECISION GRANTING
Filed: November 2, 2000 : PETITION
Attorney Docket No. 535352000500 :

This is a decision on the petition under 37 CFR 1.47(a) filed September 27, 2004 (certificate of mailing September 24, 2004), which is being treated as a petition under 37 CFR 1.183 to waive the requirement under 37 CFR 1.131 that all of the inventors sign the declaration of prior inventorship.[1]

The petition under 37 CFR 1.183 is **GRANTED**.

A non-final Office action was mailed on March 24, 2004. This office action set a shortened statutory period for reply of three months, with extensions of time obtainable under 37 CFR 1.136(a).

In response, on September 27, 2004 (certificate of mailing September 24, 2004), applicants submitted a response, including a declaration under 37 CFR 1.131. This reply was made timely by an accompanying request and fee for extension of time for response within the third month. The 37 CFR 1.131 declaration states: "Prior to at least December 30, 1998, [the joint inventors] had formed a complete and operative idea of a point of interest spatial speech method and system." The 37 CFR 1.131 declaration was signed by all of the joint inventors, except inventor Nick Elmi. Applicants filed the present petition to have the 37 CFR 1.131 declaration accepted despite the fact that the declaration

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original 37 CFR 1.63 oath or declaration.

was not signed by joint inventor Elmi. Applicants asserted that inventor Elmi was unwilling to execute the declaration.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[2]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[3]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

For a petition under 37 CFR 1.183 to be granted to waive the requirement that joint inventor Elmi sign the § 1.131 declaration, applicants must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

In the present petition, applicants set forth the steps taken to obtain joint inventor Elmi's signature on the § 1.131 declaration. Applicants have shown that the § 1.131 declaration and supporting documentation were presented to inventor Elmi for his signature. Applicants stated that inventor Elmi informed them that he refused to sign the § 1.131 declaration under the advise of his attorney.

The § 1.131 declaration presented is signed by joint inventors Reamon, Linder and Hirata. Under the circumstances, it is

---

[2] 37 CFR 1.131(a) (emphasis added).

[3] MPEP 715.04.

concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

This matter is being forwarded to Technology Center Art Unit 2817 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed September 27, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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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GORDON E NELSON
PATENT ATTORNEY, PC
57 CENTRAL ST
PO BOX 782
ROWLEY MA 01969

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Kenneth H. Falchuk	:	
Application No. 09/705,198	:	DECISION ON PETITION
Filed: November 2, 2000	:	
Attorney Docket No. Healre01.013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 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 Restriction Requirement, mailed May 2, 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 application became abandoned on June 3, 2005.

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

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

This application is being referred to Technology Center AU 3624 for appropriate action on the concurrently filed amendment.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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GORDON E NELSON
PATENT ATTORNEY, PC
57 CENTRAL ST
PO BOX 782
ROWLEY MA 01969

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OCT 14 2009

OFFICE OF PETITIONS

In re Application of :
Falchuk, et al. :
Application No. 09/705,198 : ON PETITION
Filed: November 2, 2000 :
Attorney Docket No. healre01.013 :
For: HEALTH CARE MANAGEMENT SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action, mailed January 22, 2009, which set an extendable three month period for reply. Applicants submitted an amendment after final on March 20, 2009. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the July 28, 2009 Advisory action. Accordingly, this application became abandoned on April 23, 2009. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a RCE and $405.00 required fee and a request to use the previously filed amendment of March 20, 2009 as the submission in reply to the January 22, 2009 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 22, 2009 final Office action, and the $810.00 petition fee.

The petition is **GRANTED**.

This application is being referred to Technology Center AU 3691 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted.

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

Paper No. 7

LAFF WHITESEL & SARET LTD
401 North Michigan Avenue
Chicago, IL 60611

JUL 11 2002

In re Application of	)	
HAYASHI et al.	)	
Application No. 09/705,247	)	DECISION ON PETITION TO
Filed: November 2, 2000	)	WITHDRAW THE HOLDING
For: FLEXIBLE CONNECTOR INTEGRALLY	)	OF ABANDONMENT
HAVING TRANSMISSION LINE	)	

This is a decision on the petition filed on February 4, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**

A non-final Office action was mailed on March 26, 2001 setting a three-month shortened statutory period for response. In the apparent absence of a response, the application was held abandoned, and a Notice of Abandonment was mailed on November 6, 2001.

Petitioner indicates that an amendment responsive to the Office action was deposited with a certificate of mailing dated September 26, 2001. The petition includes a copy of an amendment dated September 26, 2001, and a copy of a return postcard which acknowledges receipt of an amendment by the Patent and Trademark Office on October 1, 2001.[1] The petition includes a copy of a petition for a three-month extension of time, along with a copy of a check for $890.[2]

The response to the Office action is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof.

---

[1]Both the amendment and postcard receipt have an incorrect application number, namely, 09/704,247. This is deemed a minor error in the identification of the application in view of other identifying indicia provided.

[2]An inspection of the fee history for Application No. 09/704,247 indicates that a check for $890 along with a $30 fee charged to petitioner's deposit account were credited to the application. These fees were apparently intended for the present application and will be credited to the present application.

For the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The copy of the response submitted on February 4, 2002, is accepted.

The application file is being forwarded to the technical support staff for Technology Center 2800 for processing of the response submitted on February 4, 2002.

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

HP/jc

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)
6662226	2003-12-09	09705391	2000-11-02	8892000-6

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ joe zheng /	Date (YYYY-MM-DD)	2008-01-30
Name	Joe Zheng	Registration Number	39450

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6662226
Issue Date: December 9,2003
Application No. 09705391
Filed: November 2,2000
Attorney Docket No. 8892000-6

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

This is a decision on the electronic petition, filed January 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2010

TO SPE OF : ART UNIT 2471 - SPE Chi H. Pham.

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/705,395 Patent No.: 7,106,,693 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 change in the claim 16 be made?

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.

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

Comments: _____

SPE AU 2471

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2010

TO SPE OF : ART UNIT 2471 - SPE Chi H. Pham.

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/705,395 Patent No.: 7,106,,693 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 change in the claim 16 be made?

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.

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

Comments: _____

SPE AU 2471

UNITED STATES PATENT AND TRADEMARK OFFICE

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dss

Mailed: 12-5-05

In re application of :
Willaim H. Kump et al.. : DECISION ON
Serial No. 09/705,566 : PETITION
Filed: November 03, 2000 :
For: SCREW-IN VENT PLUG FOR LEAD-ACID BATTERIES

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed December 04, 2003 and resubmitted on January 24, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 18, 2003, 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, be withdrawn since the applicants did timely pay the issue fee on July 18, 2003 . (Copies of the ISSUE FEE TRANSMITTAL (form PTOL-85B), and the USPTO date-stamped return receipt postcard receipt are attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response, the ISSUE FEE TRANSMITTAL (form PTOL-85B) was properly filed on July 18, 2003 as evidenced by the copy of the USPTO date-stamped return receipt postcard indicating receipt of the ISSUE FEE TRANSMITTAL (form PTOL-85B) on July 18, 2003. A review of the USPTO financial records relating to the instant application fail to indicate that the issue fee submitted was ever credited to the instant application file. Further review of the Issue Fee Transmittal Form indicates that authorization to charge the issue fee to the Deposit Account Number was the indicated method of payment of fees. However, no deposit account number was given to authorize such charging of fees. However, it is clear from applicants' action by filing the Issue Fee Transmittal on July 18, 2003, that applicant intended to pay the issue fee and the omission of the Deposit Account Number being an oversight. As the instant petition gives authorization to charge any fees associated with this petition for revival to Deposit Account No. 03-1952, the issue fee will be charged to the Deposit Account Number.

Accordingly, in view of the authorization to charge any fees due to Deposit Account 03-1952, any holding of abandonment 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 is hereby vacated, and the application is returned to pending status. The application shall be forwarded to the technical

support staff for charging of the required fees due and forwarding to Patent Publications for processing.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

RICK BAUER. ESQ.
KATTEN, MUCHIN ZAVIS AND ROSENMAN
1025 THOMAS JEFFERSON STREET , N.W.
SUITE 700 EAST
WASHINGTON, D.C. 20007-5201

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JJGJr: 03-06

Paper No: 11

WENDY M LEE
GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080-4990

COPY MAILED

JUN 22 2006

OFFICE OF PETITIONS

In re Application of
Fendly :
Application No. 09/705,579 : ON PETITION
Filing Date: 2 November, 2000
Attorney Docket No.: P1053R1D1 :

This is a decision on the petition of 19 April, 2006, under 37 C.F.R. §1.182 to withdraw the terminal disclaimer filed of record in the instant application on 16 March, 2004.

The petition under 37 C.F.R. §1.182 to withdraw the terminal disclaimer is **DISMISSED**.

BACKGROUND

Petitioner avers that:

- in response to the requirement of the Examiner for a disclaimer to overcome a double-patenting rejection as to the instant application, Petitioner filed on 16 March, 2004.
- the terminal disclaimer (TD) was accepted as submitted;
- thereafter, Petitioner proceeded through prosecution and now avers that "a TD over US Patent No. 5,720,954 * * * is not required in view of the evidence of unexpected results[,]" and Petitioner seeks to withdraw the terminal disclaimer;
- it is noted that Petitioner continues in prosecution of the application, and in so doing filed a request for continued examination (RCE) with fee and submission under 37 C.F.R. §1.114

contemporaneously with the instant petition;

- further, the Examiner has, as of this writing, refused to agree to the withdrawal.

LAW AND ANALYSIS

Congress has provided at 35 U.S.C. §253:

> A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, and recorded in the Patent and Trademark Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

The regulations at 37 C.F.R. §1.183 provide that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).

The regulations at 37 C.F.R. §1.321 provide in pertinent part:

> * * *
>
> (b) An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:
>
> (1) be signed:
>
> (I) by the applicant, or
>
> (ii) if there is an assignee of record of an undivided part interest, by the applicant and such assignee, or
>
> (iii) if there is an assignee of record of the entire interest, by such assignee, or

(iv) by an attorney or agent of record;
(2) specify the portion of the term of the patent being disclaimed;
(3) state the present extent of applicant's or assignee's ownership interest in the patent to be granted; and
(4) be accompanied by the fee set forth in § 1.20(d).
(c) A terminal disclaimer, when filed to obviate a judicially created double patenting rejection in a patent application or in a reexamination proceeding, must:
(1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;
(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding; and
(3) Include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

* * *

Citing to a 9 February, 2006, Advisory Action, Petitioner states "[t]he Patent Office has indicated that the evidence [submitted by Petitioner in an after-final amendment filed on 16 December, 2005] does 'indicate synergistic effects if the anti-HER2 antibody in combination with vinorelbine for the treatment of breast cancer.'"

Petitioner may find that taking pieces of sentences out of context can have erroneous, misleading and deceptive results.

Petitioner failed to note–and to include in her presentation–the sentences that precede and follow the clipped passage from the 9 February, 2006, Advisory Action , which states:

* * *

[Petitioner's references] are not commensurate in scope to what is being claimed. The references relied upon indicate [synergistic] effects of the anti-HER2 antibody in combination with vinorelbbine for the treatment of breast cancer. The claims of the instant invention are drawn to the treatment of a broad array of cancer or tumors (i.e., those that overexpress or have activated ErbB2). Whether the unexpected results are the result of unexpectedly improved results or a property not taught by the prior art, the "objective evidence of nonobviousness must be commensurate in scope with the claims which the evidence is

> offered to support." In other worlds, the showing of unexpected results must be reviewed to see if the results occur over the entire claimed range (Citations omitted.) (Continuation Sheet, Page 2)
>
> * * *

Petitioner apparently misreads–and so misinterprets–the Examiner's words.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

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

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

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

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

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

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

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

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

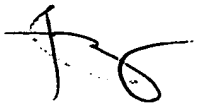
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent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

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

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[2]

The instant file is being released to the Examiner in Technology Center 1600 for further processing in due course.

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



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

[2] Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

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DRW Jan-07

GENENTECH INC
WENDY M LEE
1DNA WAY
SOUTH SAN FRANCISCO CA 94080-4990

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian M. Fendly	:	
Application No. 09/705,579	:	ON PETITION
Filed: 2 November, 2000	:	
Atty Docket No. P1053R1D1	:	

This is a decision on the petition filed on 28 September, 2006 which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioner asserts that the Terminal Disclaimer filed on 8 March, 2004, does not apply to any claim currently of record.

As the examiner has concurred, the request can be favorably considered.

This application is being referred to Technology Center Art Unit 1643 for further processing consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Adam Louis Buchsbaum et al. :
Application No. 09/705,675 :
Filed: November 30, 2000 :
Attorney Docket No. 2000-0542 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed June 1, 2005. A response was filed November 3, 2005 with a two month extension of time request however, by Advisory Action of December 2, 2005, petitioner was advised that the response did not place the application in condition for allowance. Although this application became abandoned on September 2, 2005, the instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment, filed November 1, 2005 (received November 3, 2005), be used as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2154 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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NOV 18 2009

Jeffrey P. Kushan
Sidley Austin, LLP
1501 K Street, N.W.
Washington, DC 20005

Re: Patent Term Extension
Application for
U.S. Patent No. 6,639,055

WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION

This is in response to the "Election Under 37 C.F.R. § 1.785(b)" filed April 20, 2009, of the application for patent term extension for U.S. Patent No. 6,054,297, (AVASTIN® (bevacizumab)). The present application for patent term extension for U.S. Patent No. 6,639,055 is withdrawn in favor of the elected patent, U.S. Patent No. 6,054,297.

The present application is hereby withdrawn from consideration and dismissed.

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

By mail: Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries related to this determination should be directed to the undersigned at (571) 272-7755. E-mail inquiries should be directed to mary.till@uspto.gov.

Mary C. Till
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

RE: AVASTIN® (bevacizumab)
FDA Docket No.: FDA-2007-E-0102

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DICKSTEIN SHAPIRO MORIN &
OSHINSKY, LLP
2101 L STREET, NW
WASHINGTON, DC 20037

MAIL

MAY 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Joseph M. Cannon, et al.
Application No. 09/705,694
Filed: November 6, 2000
For: SYSTEM AND METHOD FOR UPDATING STORED INFORMATION IN ELECTRONIC DEVICES

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 April 14, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents listed in the withdrawal have been withdrawn.

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

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

cc: Kyshon Rivers
Agere Systems Inc.
4 Connell Drive
Berkeley Heights, NJ 07922

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE KESSLER GOLDSTEIN & FOX PLLC
SUITE 600
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-3934

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APR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
John A. Drewe et al :
Application No. 09/707,840 : LETTER
Filed: November 6, 2000 :
Attorney Docket No. 1735.0410002/RWE/BEC :

This is in response to the paper filed March 31, 2004 under 37 CFR 1.27(c) seeking status as a small entity.

The Statement Claiming Small Entity Status of March 31, 2004 has been made of record and small entity status has been accorded.

The application file is being forwarded to Technology Center AU 1625.

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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Paper No. 7

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

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AUG 2 4 2001

OFFICE OF PETITIONS

In re Application of :
Toshihiko Miyazaki, et al. :
Application No. 09/705,957 : DECISION GRANTING PETITION
Filed: November 6, 2000 :
Attorney Docket No. 826.C1808 :

This is a decision on the petition filed June 25, 2001 (certificate of mailing June 18, 2001), requesting that Figure 1 described in the specification be accorded a filing date of November 6, 2000, as part of the original disclosure.

On November 6, 2000, the above-identified application was filed. On April 18, 2001, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of November 6, 2000, and requiring applicants to submit a properly signed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. Additionally, the Notice advised applicants that Figure 1 described in the specification appeared to have been omitted.

In response, on June 25, 2001 (certificate of mailing June 18, 2001), applicants filed the present petition with the petition fee, an executed declaration, the $130.00 surcharge, and one (1) sheet of drawings consisting of Figure 1. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 181 sheets of drawings on November 6, 2000. Applicants requested that the application, including Figure 1, be accorded a filing date of November 6, 2000, and the petition fee be refunded.

Upon review of the record, Figure 1, deposited on November 6, 2000, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 6, 2000, included Figure 1, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 1, was complete on filing and entitled to a filing date of November 6, 2000.

Accordingly, the petition is granted.

The requirement for the omitted item was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to counsel's Deposit Account No. 06-1205.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 6, 2000, using Figure 1 submitted on June 25, 2001 and Figures 2-178 submitted on November 6, 2000.

Any inquiries related to this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

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

CTT

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

CHARLES BERMAN
OPPENHEIMER WOLFF & DONNELLY LLP
2029 CENTURY PARK EAST
38TH FLOOR
LOS ANGELES, CA 90067-3024

MAIL

AUG 17 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Scott Watson
Application No.: 09/706,055
Filed: November 3, 2000
For: SYSTEM AND METHOD FOR ENHANCED BROADCASTING AND INTERACTIVE TELEVISION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed ~~May~~ July 10, 2001, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

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

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

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

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 MAY 2002

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, Massachusetts 01742-9133

In re Application of: Michael O. Rabin et al.	)	
Application No. 09/706,074	)	DECISION ON PETITION TO
Filed: November 3, 2000	)	MAKE SPECIAL UNDER 37
For: METHOD AND APPARATUS FOR	)	C.F.R. §1.102(c) AND MPEP §
PROTECTING INFORMATION AND	)	708.02 (IV): APPLICANT'S AGE
PRIVACY	)	

This is a decision on the petition, filed January 18, 2002, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Michael O. Rabin's passport establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

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

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

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Paper No.

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MADISON, WI 53701-1497

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 09/706,088
Filed: November 3, 2000
Attorney Docket No. 032026:0486

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. § 154(B)(3)(B)(II)," filed March 18, 2004. Applicants request that the patent term adjustment be corrected from twenty-four (24) days to either three hundred thirty-nine (339) or eighty-five (85) days. In part, applicants request that the patent term adjustment indicated in the patent be increased for the patent issuing more than three years after the filing date of the application.

The request for reconsideration of the patent term adjustment at the time of mailing of the notice of allowance is **DISMISSED**, except as to the request for time for over 3 years to issue, which is held in abeyance until the patent issue date is established.

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.

A decision on the request for reconsideration of the patent term adjustment indicated in the patent on the basis that the patent issued more than three years after the application filing date is being held in abeyance until after the actual patent date. Applicants are given **TWO (2) MONTHS** from the issue date of the patent to request reconsideration of the patent term adjustment indicated in the patent on this basis. Applicants may seek reconsideration on this basis without payment of the fee.

On December 24, 2003, 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 24 days. Applicants agree with the period of adjustment of 215 days for Office delay in mailing a first Office action under 35 U.S.C. 132. Applicants dispute the reduction totaling 191 days for applicant delay in responding to the non-final Office action mailed October 8, 2002. Applicants contend that using the certificate of mailing date, the PTA should have only been reduced by 61 days, not 68 days, for the

initial response mailed March 10, 2003, but received March 17, 2003. Further, applicants contend that the response received March 17, 2003 was fully responsive. Thus, the PTA should not have been further reduced by 123 days for the response filed July 18, 2003. (Likewise, applicants argue that any reduction based on the filing of the second response should be calculated based on the certificate of mailing date of July 15, 2003).

Applicants' arguments have been considered, but are not persuasive. First, of all, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, the certificate of mailing dates of the responses filed March 17, 2003 and July 18, 2003 were properly not taken into account in calculating patent term adjustment. Thus, the reduction of 68 days for applicant delay in filing their initial response to the non-final Office action is correct.

In addition, the further reduction of 123 days is correct. The record does not support a conclusion that the Notice of Non-responsive Amendment mailed June 4, 2003 was mailed in error. Further, applicants responded to the Notice on the merits on July 18, 2003. Thus, it is concluded that the reduction of 123 days pursuant to § 1.704(c)(7) for submission of a reply correcting an omission was proper.

It is further noted that on July 18, 2003, applicants also filed an Information Disclosure Statement. This IDS did not include a § 1.704(d) statement. Accordingly, if the PTA were not reduced by 123 days for submission of the response on July 18, 2003, pursuant to § 1.704(c)(8), the PTA would have been reduced by 123 days for submission of the IDS.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is twenty-four (24) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Publishing Division has been advised of this decision. The application is being processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

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

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MADISON WI 53701-1497

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MAY 19 2005

OFFICE OF PETITIONS

In re Patent No. 6,868,099	:	DECISION ON REQUEST
Walker et al.	:	FOR RECONSIDERATION OF
Issue Date: March 15, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/706,088	:	and
Filed: November 3, 2000	:	NOTICE OF INTENT TO
Attorney Docket No. 032026:0486	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 8, 2005. Patentees request that the patent term adjustment indicated in the Issue Notification (and in the patent) be corrected from one hundred eighty-seven (187) days to three hundred seven (307) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred seven **(307)** days

On March 15, 2005, the application matured into U.S. Patent No. 6,868,099, with a revised patent term adjustment of 187 days. On April 8, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 307 days. Patentees dispute the reduction of 120 days associated with the filing of an application for patent term adjustment on March 18, 2004.

Petitioner's argument is well-taken. 37 CFR 1.704(e) provides that submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under

paragraph (c)(10) of this section. A review of the application record confirms that the reduction of 120 days was based solely on the filing of such a paper after allowance. Thus, it is concluded that the reduction of 120 days is incorrect.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred seven **(307)** 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 by THREE HUNDRED SEVEN **(307)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 06-0916, as authorized. No additional fees are required.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of the certificate of correction.

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

/Karin Ferriter/
per

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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CHARLES G. CALL
1161 MARLIN COURT
MARCO ISLAND FL 34145-5809

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Fadel et al.	:	
Application No. 09/706,098	:	DECISION ON PETITION
Filed: 3 November, 2000	:	
Atty Docket No. A-004	:	

This is a decision on the petition filed on 30 December, 2003, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The application became abandoned on 24 December, 2003, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 23 September, 2003, which

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

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

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

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

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

set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The issue fee has now been received in the proper amount.

The address on the petition is different than the correspondence address of record. A copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Charles G. Call
68 Horse Pond Road
West Yarmouth, MA 02673-2516

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAR 16 2004

TECHNOLOGY CENTER 2100

Paper No. 6

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Andre KRAMER, et al.
Application No. 09/706,117
Filed: November 3, 2000
For: SYSTEM AND METHOD OF EXPLOITING THE SECURITY OF A SECURE COMMUNICATION CHANNEL TO SECURE A NON-SECURE COMMUNICATION CHANNEL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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

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

The request is **GRANTED.**

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

for P. Lanza

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

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 14

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Xiaoling Xie et al :
Application No. 09/706,128 : ON PETITION
Filed: November 3, 2000 :
Attorney Docket No. VP198-04 CON :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2003, to revive the above-identified application. This is also in response to the paper styled "REQUEST FOR REMOVAL OF SMALL ENTITY STATUS" filed September 18, 2003, which is being treated under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

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

The request that status as a Small Entity has been **REMOVED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 19, 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 $1,970.00 extension of time submitted with the petition on September 18, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 1631.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 2 3 2001

OFFICE OF PETITIONS

In re Application of :
Robert D. Schreiber et al. :
Application No. 09/706,236 :
Filed: November 2, 2000 :
Attorney Docket No. 18781-006100 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

SEAN M. BRENNAN
SENGAMO BIOSCIENCES, INC.
501 CANAL BLVD., SUITE A100
RICHMOND, CA 94804

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JAN 2 2 2002

OFFICE OF PETITIONS

In re Application of :
George Norbert Cox III :
Application No. 07/706,243 :
Filed: November 3, 2000 :
Attorney Docket No. S2-US3 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Christopher E. Blank, Esq.
Jaeckle Fleischmann & Mugle, LLP
39 State Street
Suite 200
Rochester, NY 14614-1310

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Francis X. Smith :
Application No. 09/706,318 : ON PETITION
Filed: November 4, 2000 :
Attorney Docket No. 90337.032702 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

A Final Rejection was mailed to applicant on June 5, 2002, setting a three-month shortened statutory period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on September 6, 2002.

Petitioner states in the present petition that no reply was filed because the Office action was never received. In view thereof, a copy of the Office action is attached herewith. The proposed reply for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and requisite submission under 37 CFR 1.114, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). The application cannot be revived until a proper reply 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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

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

Attachment: Copy of Final Office Action mailed June 5, 2002

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

Hiscock & Barclay, LLP
2000 HSBC Plaza
Rochester, NY 14604-2404

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Frank X. Smith :
Application No. 09/706,318 : ON PETITION
Filed: November 4, 2000 :
Attorney Docket No. 90337.032702 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 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.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 5, 2002. 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). Since the amendment submitted with the present petition does not *prima facie* place the application in condition for allowance, again, 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) 272-3223.

Marianne E. Jenkins /
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hiscock & Barclay, LLP
2000 HSBC Plaza
Rochester, NY 14604-2404

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Frank X. Smith :
Application No. 09/706,318 : ON PETITION
Filed: November 4, 2000 :
Attorney Docket No. 90337/032702 :

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $665; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

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

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hiscock & Barclay, LLP
2000 HSBC Plaza
Rochester, NY 14604-2404

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Frank X. Smith :
Application No.: 09/706,318 :
Filed: November 4, 2000 :
Attorney Docket No.: 90337.032702 :
For: OPHTHALMIC AND CONTACT LENS SOLUTIONS COMPRISING IMIDAZOLE :

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 27, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on February 17, 2006.

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) 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
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www.uspto.gov

HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 CHESNUT STREET
ROCHESTER NY 14604-2404

MAILED

APR 2 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,067,547 :
Frank X. Smith :
Application No. 09/706,318 : NOTICE
Filed: November 4, 2000 :
Attorney Docket No. 90337.032702 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on December 28, 2009.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

NEUROPACE INC
255 SANTA ANA COURT
SUNNYVALE CA 94085

COPY MAILED

MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of
Benjamin D. Pless
Application No. 09/706,322
Filed: November 3, 2000
Attorney Docket No. N11-00

DECISION ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 18, 2003, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed January 18, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration in compliance with 37 CFR 1.63 (with a 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 was held abandoned on March 19, 2001. A Notice of Abandonment was mailed on December 23, 2002.

A review of the application file reveals that the above-identified application was in fact filed with a declaration in compliance with 37 CFR 1.63. In fact, the declaration submitted used form PTO/SB/01A (declaration for utility or design application using an application data sheet). In particular, the declaration stated that it was directed to the attached specification (see 37 CFR 1.63(b)(1)), identified the name and citizenship of the inventor and was executed by the inventor (see 37 CFR 1.63(a), and included the mailing address and residence of the inventor on an application data sheet submitted with the application (see 37 CFR 1.63(c)). In view thereof, the Notice to File Missing Parts of Nonprovisional Application was mailed in error.

Accordingly, the Notice to File Missing Parts of Nonprovisional Application is **VACATED.**

The holding of abandonment is **WITHDRAWN.**

Given the basis for granting this petition, no petition fee was required, and none has been charged.

Receipt of the Change of Correspondence Address, submitted with the instant petition, is acknowledged. Future correspondence concerning this application will be mailed to the above address of record.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW, CA 94043

COPY MAILED

MAY 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Pless, Benjamin D.	:	
Application No. 09/706,322	:	ON PETITION
Filed: November 3, 2000	:	
Attorney Docket No. N11-00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 14, 2003.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Pless :
Application No. 09/706,322 : ON PETITION
Filed: 3 November, 2000 :
Attorney Docket No. N11-00 :

This is a decision on a petition filed on 11 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 mailed on 6 May, 2005, with reply under a non-extendable deadline on or before 8 August, 2005;
- the instant application went abandoned by operation of law after midnight 8 August, 2005
- the Office mailed a Notice of Abandonment on 26 October, 2005
- Petitioner filed the instant petition on 11 May, 2006, with fee, and, *inter alia*, reply in the form of the fees 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

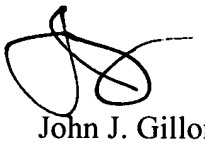
It appears that Petitioner has satisfied the requirements of the regulation.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA , CA 91105

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
Alan Mikhak
Application No. 09/706,360
Filed: November 2, 2000
Attorney Docket No. 4059/CAG/B6
For: WIRELESS CABLE REPLACEMENT SYSTEM

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

This is in response to the "Petition Under 37 CFR 1.47(b)" filed September 20, 2001 (certificate of mailing dated September 12, 2001.)

The petition is **GRANTED**.

The above-identified application was filed on November 2, 2000, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice")was mailed on December 12, 2001, requiring an executed oath or declaration, filing and additional claim fees, and a surcharge for the late filing of the oath or declaration.

On September 20, 2001, petitioner filed the instant "Petition Under 37 CFR 1.47" and obtained a five (5) month extension of time to file a reply. In support of the petition, petitioner filed an executed declaration in accordance with 37 CFR 1.63, and declarations offered by D. Bruce Prout, Christopher C. Wisdale, and Ahmadreza Rofougaran on behalf of the 37 CFR 1.47(b) applicant. Petitioner also submitted relevant correspondence exchanged between petitioner and the attorneys for the non-signing inventor.

Petitioner has shown that the sole named inventor, Alan Mikhak, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the instant petition and the declaration of Mr. Prout indicate that the complete application papers were sent to Mr. Mikhak's attorney to which no response (in the form of an executed declaration under 37 CFR 1.63) has been received to date. Petitioner has also shown that sufficient proprietary interest exists to accord status under 37 CFR 1.47(b) and that the filing of the petition was necessary to preserve the interests of 37 CFR 1.47(b) applicant.

The petition states, "I further hereby petition that any patent which may issue from the Application be issued to Broadcom Corporation." Petitioner has failed to comply with 35 USC 152 and 37 CFR 3.81. An assignment of the entire right, title, and interest in the invention has not been recorded. The inventor and assignee currently dispute ownership rights in the instant invention. The Patent and Trademark Office is not the forum for resolving a dispute between inventors and assignees as to ownership rights, Petitioner has not established that it is the assignee of the entire interest, but petitioner has established ownership interest sufficient to allow it to act as the Rule 47(b) applicant.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to 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
www.uspto.gov

Alahyar Alan Mikhak
3812 N. Lupine Lane, #E
Calabasas, California 91302

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
Alan Mikhak
Application No. 09/706,360 : LETTER
Filed: November 2, 2000
For: WIRELESS CABLE REPLACEMENT SYSTEM

Dear Mr. Mikhak:

You are named as the sole 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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the sole 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

cc: Christie, Parker & Hale, LLP
350 West Colorado Boulevard
Suite 500
Pasadena, CA 91105

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

MAR 19 2001

J T LIN
4532 OLD CARRIAGE TRAIL
OVIEDO, FL 32765

#6

In re Application of	:	
J. T. Lin	:	
Serial No.: 09/706,382	:	DECISION ON PETITION
Filed: November 6, 2000	:	
For: Apparatus and Methods for the Treatment of	:	
Presbyopia Using Fiber-Coupled-Lasers	:	

This is in response to applicants' Petition filed March 1, 2001, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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

OIPE JC141
APR 22 2002
PATENT & TRADEMARK OFFICE

04-23-02

RECEIVED 1634
APR 25 2002
TECH CENTER 1600/2900

EXPRESS MAILING CERTIFICATE

EXPRESS MAIL No.: EV 049319316 US Deposited: April 22, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Washington, D.C. 20231.

Ruth Montalvo

In the event that this paper is late filed and a necessary Petition for an Extension of Time is not concurrently filed herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this paper, to Deposit Account No. 50-1529.

JG-YY-5018/500569.20050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Hiroshi SHINOKI, et at.	Group:	1634
Serial No.:	09/706,405	Examiner:	S. HOUTTEMAN
Filed:	November 3, 2000	Customer No.:	026418
For:	FIXATION OF NUCLEOTIDE DERIVATIVES TO SOLID CARRIER		

Commissioner for Patents
Washington, D. C. 20231

RESPONSE TO NOTICE OF INCOMPLETE REPLY

Sir:

Further to the Notice of Incomplete Reply mailed April 9, 2002 in connection with the above-identified application, Applicants respectfully submit the following:

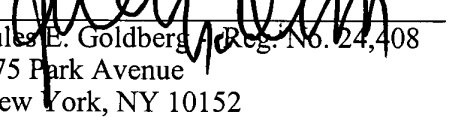
(1) a copy of the Notice of Incomplete Reply; and

(2) a Supplemental Amendment deleting the previously submitted sequence listing and substituting therefor a corrected sequence listing along with a computer readable form copy of the corrected sequence listing.

With the filing of these documents, it is respectfully submitted that this application is now in condition for further examination and prompt notice of allowance is earnestly solicited.

Respectfully submitted,

REED SMITH LLP



Jules E. Goldberg, Reg. No. 24,408
375 Park Avenue
New York, NY 10152

April 22, 2002
Tel.No. (212) 521-5400

Enclosures:
Supplemental Amendment
Hard Copy of Sequence Listing
Computer Disk containing Sequence Listing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,475	11/03/2000	Alexei A. Pilipetskii	1006	6892

7590 01/28/2003

Daniel N Daisak
Chief Patent and Trademark Counsel
TyCom (US) Inc
Rm 2B-105 250 Industrial Way West
Eatontown, NJ 07724

EXAMINER	
CHAN, JASON	
ART UNIT	PAPER NUMBER
2633	

DATE MAILED: 01/28/2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

TyCom(US) Inc.
Rm 2B-105, 250 Industrial Way West
Eatontown, NJ 07724

In re Application of :
Alexei Pilipetskii et al :
Application No. 09/706,475 : DECISION ON REQUEST TO
Filed: November 03, 2000 : CORRECT INVENTORSHIP

For: METHOD AND APPARATUS FOR OPTIMIZING THE DISPERSION AND DISPERSION SLOPE FOR A DISPERSION MAP WITH SLOPE COMPENSATING OPTICAL FIBERS

In view of the papers filed September 28, 2001, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Matthew Ma and Morten Nissov as two additional inventors.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Jason Chan
Supervisory Patent Examiner
Technology Center 2600
Communications
(703) 305-4729

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Mueller et al. :
Application No. 09/706,583 : ON PETITION
Filed: November 3, 2000 :
Attorney Docket No. 10177-137-999 :

This decision concerns the March 15, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on August 17, 2002 for failure to timely file a proper response to the July 16, 2002 Office Action, containing restriction/election requirements, which set forth a 1-month shortened statutory reply period.

The instant petition includes a "Response to Restriction Requirement" and an authorization to charge the $665 petition fee (small entity) to Deposit Account No. 16-1150, and states in essence that the entire delay in filing the required reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 3700 for continued examination.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Temeca Taylor
115-26 146th St.
Jamaica, NY 11436

COPY MAILED

NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Temeca Taylor :
Application No. 09/706,586 :
Filed: August 6, 2001 : ON PETITION
Title of Invention: :
DIGITAL AUDIO MANIPULATOR :

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed October 28, 2005, to revive the above-identified application.

The petition is **dismissed.**

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 1, 2004. The Notice set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 2, 2005. A Notice of Abandonment was mailed on April 8, 2005.

Applicant's Response

In response to the Notice, Applicant files the instant petition and asserts that she filed a Change of Address Form; however, this Office incorrectly entered the address appearing in the Change of Address Form. As a result, Applicant contends that the Office action was mailed to an incorrect correspondence address. In support of this assertion, Applicant files a copy

of a Change of Correspondence form with the instant petition, executed on October 28, 2005.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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).

Applicant lacks item (**3**) as set forth above.

Applicant is advised that an allegation that an Office action was not received may form the basis for revival of an application based upon unavoidable abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed.

It is also noted that the Office action was properly mailed to the correspondence address of record. In absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record.

Additional Relevant Law, Rules and Manual for Patent Examining Procedure ("MPEP") are as follows:

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).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

---

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Applicant's Assertion

Applicant asserts that she filed a Change of Address Form; however, this Office incorrectly entered the address appearing in the Change of Address Form. As a result, Applicant contends that the Office action was mailed to an incorrect correspondence address. In support of this assertion, Applicant files a copy of a Change of Correspondence form with the instant petition, executed on October 28, 2005.

Analysis and Conclusion

As to item (**3**), Applicant has not provided an adequate showing of unavoidable delay. Applicant is advised that there are two methods wherby Applicant may demonstrate that correspondence was filed in this Office. The first method, under 37 CFR 1.8, provides for the filing of papers and fees using a "Certificate of Mailing."

37 CFR § 1.8 Certificate of mailing or transmission, provides that

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Additionally, the second method, under section 503 of the MPEP, provides that

> [i]f 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 items listed thereon on the date stamped thereon by the USPTO.

Applicant has not provided any evidence that would demonstrate that the Change of Address Form was filed in this Office prior to October 28, 2005. The petition is dismissed without prejudice. If Applicant has documentary evidence, e.g. a copy of the Change of Address that was putatively filed, or a copy of a return receipt postcard, to support her assertion that a Change of Address Form was filed in this Office prior to October 28, 2005, Applicant should submit such evidence in any renewed petition.

The Change of Correspondence Address has been entered and made of record.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Temeca Taylor
115-26 146th St.
Jamaica, NY 11436

COPY MAILED

DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Temeca Taylor :
Application No. 09/706,586 :
Filed: August 6, 2001 : ON PETITION
Title of Invention: :
DIGITAL AUDIO MANIPULATOR :

This is a decision on the correspondence filed November 18, 2005, requesting Reconsideration of a Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a).

The petition is **dismissed.**

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 1, 2004. The Notice set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 2, 2005. A Notice of Abandonment was mailed on April 8, 2005.

Applicant's October 28, 2005 Response

In response to the Notice, Applicant filed a petition on October 28, 2005 and asserted that she filed a Change of Address Form; however, this Office incorrectly entered the address appearing in the Change of Address Form. As a result, Applicant argued

that the Office action was mailed to an incorrect correspondence address. In support of this assertion, Applicant filed a copy of a Change of Correspondence form with the October 28, 2005 petition, executed on October 28, 2005.

The petition was dismissed in a Decision mailed November 8, 2005. The Decision dismissing the petition informed Applicant that there are two methods wher[e]by Applicant may demonstrate that correspondence was filed in this Office. The first method, under 37 CFR 1.8, provides for the filing of papers and fees using a "Certificate of Mailing." The second method, in accordance with the Manual of Patent Examining Procedure "MPEP" § 503 provides that Applicant may provide a stamped, self-addressed return-receipt postcard itemizing the papers filed with the postcard. This Office will stamp the postcard and deposit it in the 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 items listed thereon on the date stamped thereon by the USPTO." MPEP 503.

Applicant did not provided any evidence that would demonstrate that the Change of Address Form was filed in this Office prior to October 28, 2005. The petition was dismissed without prejudice. Applicant was advised that if she has documentary evidence, e.g. a copy of the Change of Address that was putatively filed (that included a proper Certificate of Mailing), or a copy of a return receipt postcard, to support her assertion that a Change of Address Form was filed in this Office prior to October 28, 2005, Applicant should submit such evidence in any renewed petition.

The instant request for reconsideration

Applicant files the instant Request for Reconsideration and again asserts that this Office mistakenly entered her new correspondence address information.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance,

or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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).

Applicant lacks items (**1**) and (**3**) as set forth above.

As to item (**1**), Applicant has not filed a reply to the Office action. A copy of the Office action is attached.

As to item (**3**), Applicant is again advised that nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[1] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Further to this, an allegation that an Office action was not received must be adequately supported, in order for the petition to be granted and a new Office action (and period for reply) mailed[2].

---

[1] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[2] The inclusion of a copy of he non-final Office action with this decision is not an indication that the petition is granted. It is intended to facilitate the filing of a reply with a petition to revive under 37 CFR 1.137(b).

It is again iterated that decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of

whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3]

Again, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Analysis and Conclusion

As to item (**3**), Applicant has not provided an adequate showing of unavoidable delay. If Applicant has documentary evidence, e.g. a copy of the Change of Address that was putatively filed, or a copy of a return receipt postcard, to support her assertion that a Change of Address Form was filed in this Office prior to October 28, 2005, Applicant should submit such evidence in any renewed petition.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Attachment: October 1, 2004 Office action

[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

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

Baker & Botts
30 Rockefeller Plaza
New York, NY 10112

COPY MAILED

FEB 11 2004

OFFICE OF PETITIONS

In re Application of :
Charles Baker :
Application No. 09/706,590 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. C40270/120935 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 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 July 22, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 23, 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.

The application file is being forwarded to Technology Center 1700, Art Unit 1732.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,529,617	2003-03-04	09/706,618	2000-11-06	07650014IP

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	/Clyde R Christofferson/	Date (YYYY-MM-DD)	2007-11-06
Name	Clyde R Christofferson	Registration Number	34138

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. 6529617
Issue Date: March 4,2003
Application No. 09706618
Filed: November 6,2000
Attorney Docket No. 21720

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

This is a decision on the electronic petition, filed November 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES 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. 6316422
Issue Date: November 13,2001
Application No. 09706619
Filed: November 6,2000
Attorney Docket No. P 23649-A USA

:
: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 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 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.

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)
6316422	2001-11-13	09706619	2000-11-06	

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)	2010-01-07
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.**

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 8

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

COPY MAILED

NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
David Francis Bacon, et al. :
Application No. 09/706,625 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. YOR920000359US2 :

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

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on February 23, 2004. On August 19, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2126 for consideration of the amendment filed August 19, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145
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NOV 22 2004

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NOV 22 2004

OFFICE OF THE DIRECTOR
TC 3600

WEBSTER HUGHES
4807 Pellyn Farm Ct
Charlotte, NC 28226

In re application of
Webster Hughes :
Application No. 09/706,678 : **DECISION ON REQUEST**
Filed: November 06, 2000 : **FOR WITHDRAWAL OF**
For: METHOD AND SYSTEM FOR REBROKERING : **ATTORNEY**
ORDERS IN A TRADING SYSTEM

This is a decision on the request filed on July 12, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP was submitted to the United States Patent and Trademark Office on June 25, 2004. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed October 29, 2004.

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

SNM/pav: 11/17/04

cc:
James J. Woods, Reg. No. 47,184
BROWN RAYSMAN MILLSTEIN
FELDER & STEINER LLP
900 Third Avenue
New York, NY 10022
(212) 895-2000

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

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JUL 11 2000
By

JUN - 7 2000

DOCKETED
DUE DATE
BY 7/12/00

MM
Paper No. 6

In re Application of:
YARDLEY ET AL.
Serial No.: 09/442,981
Filed: November 18, 1999
For: BRANCHED ADAMANTYL AND NORADAMANTYL ARYL-AND ARALKYLPIPERAZINES WITH SEROTONIN 5-HT 1A ACTIVITY

DECISION ON PETITION

Am10015\

CC: RADNOR

This is a decision on the petition under 37 CFR 1.53, filed April 5,2000, to convert the application to a provisional application.

Since the petition includes all that is required by 37 CFR 1.53, the petition is GRANTED.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion into a provisional application.

PETITION GRANTED

John Doll, Director
Technology Center 1600

RECEIVED
MAR 23 2004
TECH CENTER 1600/2900

EGON E BERG
AMERICAN HOME PRODUCTS CORPORATION
PATENT LAW DEPARTMENT - 2B
ONE CAMPUS DRIVE
PARSIPPANY, NJ 07054

PAGE 9/10 * RCVD AT 2/23/2004 10:19:14 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/0 * DNIS:7469195 * CSID:4848658782 * DURATION (mm-ss):03-06

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Kang-Wook Chun	: DECISION ON REQUEST FOR
Patent Number	: 7603024	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/706,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1680** 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 15

MARK K. JOHNSON
P.O. BOX 510644
NEW BERLIN, WI 53151-0644

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MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Jon A. Wolff et al :
Application No. 09/707,000 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. Mirus.018.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 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 30, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 31, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

cc:

Mark K. Johnson
505 South Rosa Road
Madison, WI 53719

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Paper No. 17

ENERGY CONVERSION
DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309In re
Application of

Higley, et al.

Application No. 09/707,009

Filed: November 6, 2000

Attorney Docket No. OBC-101

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DEC 1 9 2003

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed April 24, 2003, which set a shortened statutory period for reply of three (3) months. A three month extension of time was obtained, but no proper response to the final Office action was received within the allowable period. Accordingly, the application became abandoned on September 25, 2003.

The examiner has determined that the amendment filed November 18, 2003, places the application in condition for allowance.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

Mail Date: 05/03/2010

Applicant	: Arik Elberse	: DECISION ON REQUEST FOR
Patent Number	: 7613824	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/707,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/06/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2215** 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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WILLIAM R. EVANS
LADAS & PARRY, LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Vehmas et al. :
Application No. 09/707,036 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. U 013044-9 :

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) 272-3282.

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

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NMF

Paper No. 14

Thomas J. Engellenner
Nutter McClennen & Fish
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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FEB 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Massoud Motamedi et al. :
Application No. 09/707,102 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. 101318-0013 ✓ TJE/DDN :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 4, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. Accordingly, the application became abandoned on September 5, 2002.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The application file is being forwarded to the Publishing Division for further processing.

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

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

Attachment: Issue Fee Transmittal Form

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MAR 2 3 2004

Paper No. 3

Technology Center 2100

Mr. Ralph V. Bain
39908 San Simeon Ct.
Fremont, CA 94539-3619

In re Application of:
Ralph V. Bain
Application No. 09/707,225
Filed: November 06, 2000
For: SELF-DECRYPTING WEB SITE PAGE

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP §708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed February 20, 2004, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. §1.102 and in accordance with M.P.E.P. §708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Ralph V. Bain's birth certificate establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

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

James R. Matthews

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

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Paper No. 16

STEPHEN A. PENDORF
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7656

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Birgit Schleifenbaum et al :
Application No. 09/707,270 : ON PETITION
Filed: November 6, 2000 :
Attorney Docket No. Mo-5666/HR-231 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 27, 2002, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on April 3, 2003 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 24, 2003. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 28, 2003.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

This file is being forwarded to Technology Center AU 1761 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Devendra Kalra	: DECISION ON REQUEST FOR
Patent Number	: 7584090	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/707,309	: OF WYETH
Filed	: 11/06/2000	:
		:

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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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of
Rodric C. Fan, et al.
Application No. 09/707,326
Filed: November 6, 2000
Attorney Docket No. M-9630 US

ON PETITION

This is a decision in response to the petition, filed September 18, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature of John P. Wagner, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Wagner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner; however, all future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2007. A Notice of Abandonment was mailed on May 3, 2007. In response, on September 18, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 3768 for consideration of the amendment filed September 18, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN P. WAGNER, JR.
WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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JUL 13 2009

OFFICE OF PETITIONS

In re Application :
Rodric C. Fan et al. :
Application No. 09/707,326 : DECISION ON APPLICATION
Filed: November 6, 2000 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. M-9630 US :

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 11, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred twenty (520) days to seven hundred ninety-three (793) 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** 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). 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

WAGNER BLECHER LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500

PATENT APPLICATION

ATTORNEY DOCKET NO. TRMB-T9630

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Rodic C. FAN, et al.

Confirmation No.: 9442

Application No.: 09/707,326

Examiner: SHARMA, SUJATHA R.

Filing Date: 11/06/2000

Group Art Unit: 2618

Title: Location Authentication Stamp Attached to Messages

Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705)

NOTE: 37 C.F.R. 1.704 (e): "Submission of an application for patent term adjustment under 1.705(b) (with or without request under Sec. 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section."

1. This request for reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on 3/24/2009

☒ The issue fee is being paid as set forth in the papers attached hereto.

2. Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under 1.702 For the Adjustment-Part B." (37 C.F.R. 1.705(b)(2)(i) and (ii)).

3. Any patent granted on this application (37 C.F.R. 1.705(b)(2)(iii)):
☒ is not subject to a terminal disclaimer.
☐ is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is_____

4. As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 1.704 (37 C.F.R. 1.705(b)(2)(iv)):
☐ there were none (37 C.F.R. 1.705(b)(2)(iv)(B)). ☒ there were as follows (37 C.F.R. 1.705(b)(2)(iv)(A)):

- 3/29/2004, Applicant delay of 65 days in filing response;
- 12/28/2004, RCE filed with Applicant delay of 80 days;
- 8/10/2005, Applicant delay of 87 days in filing response;
- 4/07/2006, Applicant delay of 76 days in filing response;
- 9/12/2006, RCE filed;
- 9/18/2007, Applicant delay of 259 days in filing response (following petition to revive).

5. Also attached hereto is a "Request for Reinstatement For ☐ All and/or ☐ Part of the Period Adjustment Reduced Pursuant to 1.704(b)-Part C." (37 C.F.R. 1.705(c)).

6. The fee set forth in 1.18(e) ($200.00), required by 37 C.F.R. 1.705(b)(1), is paid as follows:

Please charge Deposit Account 50-4157 $ 200.00 . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-4157 pursuant to 37 CFR 1.25.

☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, Alexandria, VA 22313-1450

Date of Deposit:

OR

☒ I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571)273-8300 or via electronic submission.

Date of facsimile/transmission: May 11, 2009

Typed Name: Brenda Dinapoli

Signature: /Brenda Dinapoli/

Respectfully submitted,

Rodic C. FAN, et al.

By /John P. Wagner, Jr./

JOHN P. WAGNER, JR.

Attorney/Agent for Applicant(s)

Reg No. : 35,398

Date : May 11, 2009

Telephone : 408-377-0500

WAGNER BLECHER LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500

PATENT APPLICATION

ATTORNEY DOCKET NO. TRMB-T9630

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Rodic C. FAN, et al.

Confirmation No.: 9442

Application No.: 09/707,326

Examiner: SHARMA, SUJATHA R.

Filing Date: 11/06/2000

Group Art Unit: 2618

Title: Location Authentication Stamp Attached to Messages

Commissioner For Patents
PO Box 1450
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STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS(ES) UNDER 1.702 FOR THE ADJUSTMENT (37 C.F.R. 1.705(b)(2)(i) and (ii))

1. This statement is being submitted in support of the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance" to which this statement is attached.

37 C.F.R. 1.705(b)(2)(i)

2. The patent term adjustment shown on the Notice of Allowance is: 520 days

It is respectfully suggested that the correct patent term adjustment under 1.702 is: 793 days

37 C.F.R. 1.705(b)(2)(ii)

NOTE: Under 1.705(b)(2)(ii) applicant must set forth: "The relevant dates as specified in 1.703(a) through(e) for which an adjustment is sought and the adjustment as specified in 1.703(f) to which the patent is entitled."

3. The basis(es) on which the applicant seeks adjustment are as follows:
The adjustment is sought for the following date: between 6/30/2004 and 10/24/2005
Adjustment to be made for this date: 273 days = (363d - app. delay of 145d)

Basis: First Action was received 656 days after the 14-mo. date. The 3-yr. rule to allowance was violated by 363 (from 11/06/2003 to 12/28/2004) that did not overlap with the 14-mo. violation of 656 days. Subtraction of app. delays of 65 and 80 days reduces the 3-yr. delay from 363 days to 273 days. Per Wyeth v. Dudas (580 F. Supp. 2d 138; 88 U.S.P.Q.2D (BNA) 1538, September 30, 2008), USPTO's view that any administrative delay under 35 U.S.C.S. § 154(b)(1)(A) overlapped any three-year maximum pendency delay under § 154 (b)(1)(B) could not be squared with language of § 154(b)(1)(B), as "B delay" began when PTO had failed to issue patent within three years, not before.

☐ Plus ____ additional page(s)

☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450
Date of Deposit:

OR

☒ I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571)273-8300 or via Electronic submission.
Date of facsimile/transmission: May 11, 2009
Typed Name: Brenda Dinapoli
Signature: /Brenda Dinapoli/

Respectfully submitted,
Rodic C. FAN, et al.
By /John P. Wagner, Jr./
JOHN P. WAGNER, JR.
Attorney/Agent for Applicant(s)
Reg No. : 35,398
Date : May 11, 2009
Telephone : 408-377-0500

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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,574,215
Issued: August 11, 2009
Application No. 09/707,326
Filed: November 6, 2000
Attorney Docket No. TRMB-T9630

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN ISSUE NOTIFICATION filed on October 13, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 520 days to 793 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 nine hundred thirty-seven (937) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 7, 2003 and ends on December 27, 2004, the day before the RCE was filed, and is 417 (not 419) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 937 days (1087 "A delay" plus 417 "B delay" minus 0 overlap minus 567 "applicant delay"), not 793 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-seven (937)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,574,215 B1

DATED : August 11, 2009

INVENTOR(S) : Fan 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 (520) days

Delete the phrase "by 520 days" and insert – by 937 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 15:45:15

PTA Calculations for Application: 09/707326			
Application Filing Date:	11/06/2000	PTO Delay (PTO):	1087
Issue Date of Patent:	08/11/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	567
Post-Issue Petitions:	0	Total PTA (days):	937
PTO Delay Adjustment:	417		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	417		
89.5	07/22/2009	PTA 36 MONTHS			
89	08/11/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
88	07/17/2009	EXPORT TO FINAL DATA CAPTURE			
87	07/16/2009	DISPATCH TO FDC			
86	07/13/2009	MAIL-PETITION DECISION - DISMISSED			
85	07/13/2009	PETITION DECISION - DISMISSED			
84	05/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
83	05/11/2009	ISSUE FEE PAYMENT VERIFIED			
82	05/11/2009	PETITION ENTERED			
81	05/11/2009	ISSUE FEE PAYMENT RECEIVED			
80	04/14/2009	FINISHED INITIAL DATA CAPTURE			
79	03/27/2009	EXPORT TO INITIAL DATA CAPTURE			
78	03/24/2009	MAIL NOTICE OF ALLOWANCE	431		67
75	04/03/2008	ISSUE REVISION COMPLETED			
74	02/29/2008	CORRESPONDENCE ADDRESS CHANGE			
73	02/29/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
72	02/19/2008	DOCUMENT VERIFICATION			
71	02/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	02/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
69	02/19/2008	NOTICE OF ALLOWABILITY			
68	02/13/2008	DATE FORWARDED TO EXAMINER			
67	09/18/2007	RESPONSE AFTER NON-FINAL ACTION		259	59

66	01/23/2008	MAIL NOTICE OF RESCINDED ABANDONMENT			
65	02/13/2008	NOTICE OF RESCINDED ABANDONMENT IN TCS			
64	01/23/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
63	01/23/2008	PETITION TO REVIVE APPLICATION - GRANTED			
62	09/18/2007	PETITION ENTERED			
61	05/03/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
60	04/30/2007	ABAND. FOR FAILURE TO RESPOND TO O. A.			
59	10/02/2006	MAIL NON-FINAL REJECTION			
58	09/28/2006	NON-FINAL REJECTION			
57	09/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	09/13/2006	DATE FORWARDED TO EXAMINER			
55	09/12/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	09/13/2006	DATE FORWARDED TO EXAMINER			
53	09/12/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	09/13/2006	DISPOSAL FOR A RCE / CPA / R129			
51	09/12/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	09/12/2006	REFERENCE CAPTURE ON IDS			
49.7	09/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	09/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	09/01/2006	CORRESPONDENCE ADDRESS CHANGE			
47	06/12/2006	MAIL FINAL REJECTION (PTOL - 326)			
46	06/08/2006	FINAL REJECTION			
45	04/18/2006	DATE FORWARDED TO EXAMINER			
44	04/07/2006	RESPONSE AFTER NON-FINAL ACTION		76	38
43	04/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
41	01/27/2006	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
40	01/27/2006	RECEIPT OF ACKNOWLEDGMENT LETTER			
39	01/27/2006	RECEIPT OF ACKNOWLEDGMENT LETTER			

38	10/21/2005	MAIL NON-FINAL REJECTION			
37	10/13/2005	NON-FINAL REJECTION			
36	08/23/2005	DATE FORWARDED TO EXAMINER			
35	08/10/2005	RESPONSE AFTER NON-FINAL ACTION		87	33
34	08/10/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	02/15/2005	MAIL NON-FINAL REJECTION			
32	02/15/2005	NON-FINAL REJECTION			
31	01/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
30	01/18/2005	DATE FORWARDED TO EXAMINER			
29	12/28/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	01/18/2005	DATE FORWARDED TO EXAMINER			
27	12/28/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		80	22
26	01/18/2005	DISPOSAL FOR A RCE / CPA / R129			
25	12/28/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	12/28/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
22	07/09/2004	MAIL FINAL REJECTION (PTOL - 326)			
21	06/28/2004	FINAL REJECTION			
20	06/28/2004	DATE FORWARDED TO EXAMINER			
19	03/29/2004	RESPONSE AFTER NON-FINAL ACTION		65	16
18	03/29/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	03/09/2004	CORRESPONDENCE ADDRESS CHANGE			
16	10/24/2003	MAIL NON-FINAL REJECTION	656		-1
15	10/20/2003	NON-FINAL REJECTION			
14	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	06/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	02/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	01/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	10/14/2002	CORRESPONDENCE ADDRESS CHANGE			
9	10/15/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
8	11/09/2001	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			

7.7	11/06/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	11/06/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	02/02/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	01/23/2001	TRANSFER INQUIRY			
4	01/08/2001	APPLICATION DISPATCHED FROM OIPE			
3	01/02/2001	CORRESPONDENCE ADDRESS CHANGE			
2	12/01/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/06/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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R. DANNY HUNTINGTON
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
Suite 800
1425 K Street, NW
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Jack D. Pippin	: DECISION ON REQUEST FOR
Patent Number	: 7587262	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/707,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **773** 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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R. DANNY HUNTINGTON
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
Suite 800
1425 K Street, NW
Washington, DC 20005

Mail Date: 05/18/2010

Applicant	: Jack D. Pippin	: NOTICE CONCERNING IMPROPER
Patent Number	: 7587262	: CALCULATION OF PATENT TERM
Issue Date	: 09/08/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 09/707,448	: IMPROPERLY MEASURING REDUCTION
Filed	: 11/07/2000	: 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 **808** 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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Paper No. 5

GEORGE C PAPPAS
QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

COPY MAILED

JUN 0 5 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of : DECISION GRANTING
Emilija M. Simic et al. : PETITION
Application No. 09/707,458 :
Filed: November 7, 2000 :
Attorney Docket No. 990288 :

This is a decision on the paper styled "Petition For Corrected Filing Date" filed March 7, 2001, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 6, 2000, rather than the presently accorded filing date of November 7, 2000. Receipt is also acknowledged of the duplicate petition filed May 16, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on November 6, 2000. In support, applicants provided a copy of the Express Mail label, receipt no. EJ437701104US, showing a Date-In of November 6, 2000. The same Express Mail receipt number is noted on the original Application Transmittal Letter and application papers in the case. Applicants request that the application be accorded a filing date of November 6, 2000.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 6, 2000.

The petition is granted.

A copy of the corrected Filing Receipt is enclosed.

Pursuant to petitioner's authorization, Deposit Account No. 17-0026 will be charged $18.00 for the claims in excess of twenty.

The application is being returned to Technology Center AU 2634 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

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In re Patent No. 6338362
Issue Date: January 15,2002
Application No. 09707465
Filed: November 7,2000
Attorney Docket No. PII-25802/04

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

This is a decision on the electronic petition, filed April 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 28,2010 . 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)
6338362	2002-01-15	09707465	2000-11-07	PII-25802/04

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	/Douglas W. Sprinkle/	Date (YYYY-MM-DD)	2010-04-28
Name	Douglas W. Sprinkle	Registration Number	27394

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/28/08

Paper No.: —

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/702468 Patent No: 6808946B1

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: Beginning at page 1 w/ 5,885,827 through to page 2 Anderson: don't enter those references & all intervening references. None of those references were of record during prosecution.

SPE

1632
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

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

Mailed

DEC - 9 2004

In re Application of:
Thorkell GUDMUNDSSON, et al.
Application No. 09/707,490
Filed: November 6, 2000
For: APPARATUS FOR COMPUTER-AIDED DESIGN OF A PRODUCT OR PROCESS

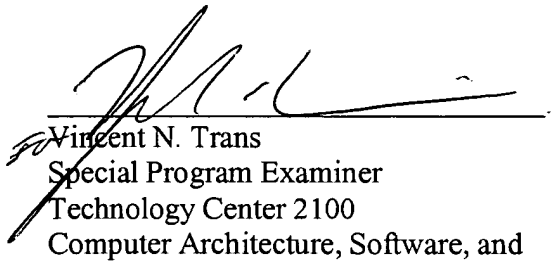
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 7, 2004.

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

The request is **GRANTED**.

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



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

cc: Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 18 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Wagner Murabito & Hao LLP
Two North Market Street Third Floor
San Jose CA 95113

In re Application of:
LUNA, AMELIA C., et al.
Application Serial No.: 09/707,521
Filed: November 6, 2000
For: **IMPLEMENTATION OF A DV VIDEO DECODER WITH A VLIW PROCESSOR AND A VARIABLE LENGTH DECODING UNIT**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final action as premature, filed September 14, 2005, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed November 2, 2004 final and requests withdrawal of finality of the Office action.

A non-final Office action was mailed on November 10, 2003. Applicant filed an amendment to the claims on April 5, 2004 substantially amending several claims including all independent claims. On June 15, 2004 the Examiner made a final Office action. In a telephonic interview held on September 14, 2004 the examiner agreed to withdraw the final Office action of June 15, 2004 as premature. On November 2, 2004 the examiner again made a final Office action citing a new grounds of rejection necessitated by amendment.

Petitioner argues that the new final Office action mailed November 2, 2004 was also premature. Petitioner contends that the response mailed February 10, 2005 (received February 15, 2005) should have been entered as a matter of right since the final Office action mailed June 15, 2004 was withdrawn. It is noted that the response received February 15, 2005 was entered. The amendment necessitating the new grounds of rejection was filed April 5, 2004. In effect the response of February 15, 2005 was supplemental to the amendment of April 5, 2004 since the intervening final Office action of June 15, 2004 was withdrawn. It is further argued that the examiner never stated that the new grounds of rejection were necessitated by the amendment in the response of April 5, 2004. A review of the record indicates that this is the only amendment to the claims. Therefore, the April 5, 2004 amendment necessitated the new grounds.

The petition fails to show that applicant's amendment received April 5, 2004 did not necessitate the new grounds set forth by the examiner.

Accordingly, the petition to withdraw finality is **DENIED**. The application remains in an abandoned status.

Any request for reconsideration must be filed within two months form the date of this decision. Petitioner may wish to consider filing a petition to revive an unintentionally abandoned application in accordance with 37 CFR § 1.137(b).

Andrew Faile, 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

Wagner Murabito & Hao LLP
Two North Market Street Third Floor
San Jose, CA 95113

COPY MAILED

MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Luna et al.	:	
Application No. 09/707,521	:	ON PETITION
Filed : November 6, 2000	:	
Attorney Docket Number:	:	
SONY-50P3845	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed November 2, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a response on August 17, 2004; however, the response failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed May 6, 2005.

Applicant next filed a petition to withdraw prematureness of final rejection, to enter applicant's response, and to withdraw the holding of abandonment on September 14, 2005, which was denied in a Decision mailed December 18, 2005, for failing to meet the requirements of a grantable petition.

No timely and proper reply having been received, the application became abandoned February 3, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2613 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES 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.: 05-05

Paper No: __

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MAY 0 6 2005

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of
Brocheton, et al. :
Application No. 09/707,536 : ON PETITION
Filed: 7 November, 2000 :
Attorney Docket No. 3882-906-CIP :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 16 February, 2001, but not received into the Office of Petitions until this writing.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 7 November, 2000, without, *inter alia*, a fully executed oath or declaration; and

- on 21 January, 2001, the Office mailed a Notice to File Missing Parts, indicating that, inter alia, a fully signed oath/declaration (with surcharge) was required in the reply;

- on 16 February, 2001, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47 an oath/declaration signed by named inventors Rahier and Janssens, but without the signature of named inventor Sophie Brocheton (Ms. Brocheton), and narrative by Petitioner Bradley M.

Knepper (Reg. No. 44,189), and the Brussels, Belgium, patent attorney Joelle Van Malderen attesting to having forwarded to Ms. Brocheton at her last known and then-current address a copy of the entire application (description, claims, abstract and drawings), *inter alia*, and that as of the time of Ms. Malderen's statement Ms. Brocheton had not signed and returned the oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination 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

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)
6631360	2003-10-07	09707547	2000-11-06	

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

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	/rlc/	Date (YYYY-MM-DD)	2008-08-06
Name	Roberta L. Christensen		
Enter Reel and Frame Number		Remove	
Reel Number	018515	Frame Number	0562
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6631360
Issue Date: October 7,2003
Application No. 09707547
Filed: November 6,2000
Attorney Docket No. APII115363

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

This is a decision on the electronic petition, filed August 6,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 6,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

DAN A SHIFRIN
CIRRUS LOGIC INC
2901 VIA FORTUNA
AUSTIN TX 78746-7574

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Lindemann et al. :
Application No. 09/707,616 : ON PETITION
Filed: 6 April, 2001 :
Attorney's Docket No. 1128-AL/D1 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 18 December, 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**.

The instant application became abandoned on 8 August, 2003, for failure to timely respond to the non-final Office action mailed on 7 May, 2003, which set a three (3) month shortened statutory

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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)).

period for reply was set. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 December, 2003.

Petition Under 37 CFR 1.181

Petitioners assert that the Office action mailed on 7 May, 2003, 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.

It is noted that the address of record, which is the address to which the Office action was mailed, is in Austin, TX, while the address listed on the petition is in Highlands Ranch, CO. Petitioners have not stated when counsel moved to the new address. Despite petitioners' statement that a search of the docket records and file jacket indicates that the Office action was not received and petitioners' inclusion of a docket record, the showing of record is that counsel relocated to Colorado but did not timely inform the Office thereof. As such, the Office action may have been properly mailed to the address of record but not received because petitioners were no longer receiving mail at that address.

As the showing of record does not warrant withdrawal of the holding of abandonment, the petition under 37 CFR 1.181 will be dismissed.

---

[2] See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Petition Under 37 CFR 1.137(b)

Petitioners submitted an amendment and an IDS as the required reply.

The petition is **granted**. The holding of abandonment is withdrawn.

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

The address listed on the petition filed on 18 December, 2003, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Dan Shifrin
1745 Shea Center Drive, Suite 330
Highlands Ranch, CO 80129

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 7

JOHN W. RYAN
WILMER CUTLER & PICKERING
2445 M STREET NW
WASHINGTON DC 20037-1420

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SEP 2 4 2001

OFFICE OF PETITIONS

In re Application of :
Yin Cheng et al :
Application No. 09/707,770 : DECISION REFUSING STATUS
Filed: November 8, 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 003636.0103 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed August 13, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

The petition states that a diligent effort on the part of the firm and the assignee, Aether Systems, Inc., has been expended in trying to locate nonsigning inventor Cheng. In this regard, the petition sets forth the following attempts to locate nonsigning inventor Yin Cheng: (1) by mailing the declaration and assignment by U.S. Certified Mail, Return Receipt Requested, and Federal Express to two last known addresses, both of which were returned as "Addressee Unknown; (2) forwarding of the declaration and assignment to inventor Cheng to an e-mail address provided by a previous co-worker; and (3) attempts to contact inventor Cheng at her last known phone number. Further, the petition states that, according to Jasamine Stephens, of legal personnel of Assignee, there is a possibility that inventor Cheng has relocated to China at an unknown address.

As to item (1), where inability to find or locate a named inventor is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact 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.

The applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). While it is appreciated that several attempts have been made to locate nonsigning inventor Cheng, at the present time, the evidence is not considered to constitute adequate proof that all possible efforts have been expended in an effort to locate inventor Cheng such that the declaration can be accepted under 37 CFR 1.47(a). In this regard, while the petition indicates that the assignee, Aether Systems, Inc., has made a diligent effort to locate the inventor, there is no indication whether inventor Cheng's employee records were accessed and, if so, what did inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Since the petition indicates that inventor Cheng may have relocated to China, has petitioner attempted to locate inventor in any regional or national registry(s) or by other means, such as the Internet and Lexis.com?[1]. Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Cheng is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to inventor's Cheng's address, return receipt requested, along with a cover letter of instructions which includes a deadline

[1] A brief search on Lexis.com indicated several addresses for a Yin Cheng.

or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If the inventor is located and the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

As to item (2), the declaration is defective in that it has been altered. In this regard, the block for the first named inventor has the name Yan Hang crossed through it and printed beside it is the name of inventor Yin Cheng. Since the declaration cannot be amended, a new declaration is required that is not altered or amended and that clearly sets forth the inventive entity of this application.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 10

JOHN W. RYAN
WILMER CUTLER & PICKERING
2445 M STREET NW
WASHINGTON DC 20037-1420

COPY MAILED

FEB 0 4 2002

OFFICE OF PETITIONS

In re Application of
Yin Cheng et al
Application No. 09/707,770
Filed: November 8, 2000
For: WEB PAGE CONTENT TRANSLATOR

:
:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:37 1.47(a) MOOT
:

Papers filed on January 24, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed September 24, 2001, included a Declaration signed by previously nonsigning inventor Yin Cheng in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The $130 fee submitted with the instant petition is unnecessary since this fee was previously paid with the petition of August 13, 2001. Accordingly, the $130 fee received on January 24, 2002 will be refunded to petitioner's deposit account.

This application is being forwarded to the Initial Patent Examination Unit for preexamination processing.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 2 7 2003

Technology Center 2100

Paper No. 17

Wilmer Cutler & Pickering
2445 M Street, NW
Washington , DC 20037

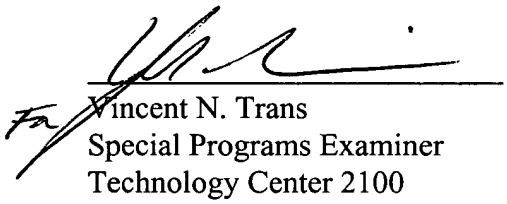
In re Application of: Yin Cheng, et al.	)	
Application No. 09/707,770	)	
Filed: November 8, 2000	)	**DECISION ON REQUEST FOR**
For: WEB PAGE CONTENT TRANSLATOR	)	**WITHDRAWAL AS ATTORNEY**
	)	

This is a decision on the Request To Withdraw from Representation filed March 14, 2003.

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

The request is **GRANTED**.

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



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

cc: Brad Aaron
Aether Systems, Inc.
11460 Cronridge Drive
Owings Mills, MD 21117

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

MANELLI, DENISON & SELTER PLLC
ATTN: WILLIAM H. BOLLMAN
2000 M STREET, N.W.
WASHINGTON, DC 20016

Mail Date: 04/21/2010

Applicant	: Yin Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7574486	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/707,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

JUN 15 2005

OFFICE OF PETITIONS

In re Application of :
Hidetoshi Ishida et al :
Application No. 09/707,844 : ON PETITION
Filed: November 8, 2000 :
Attorney Docket No. 0819-448 :

This is a decision on the petition, filed June 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2829 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 OF PATENTS

January 3, 2004

Mark J. Murphy
Cook, Alex, McFarron, etal
200 West Adams St., Suite 2850
Chicago, Il 60603

In re Application of:
Shunpei Yamazaki, et al
Serial No.: 09/707862 On Petition
Filing Date: November 7, 2000
For: LIGHT EMITTING DEVICE AND METHOD OF MANUFACTURING THE SAME

In response to the petition received December 8, 2003, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed February 15, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned April 17, 2001.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on December 8, 2003 for release to Technology Center 2871.

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 3, 2004

Mark J. Murphy
Cook, Alex, McFarron, etal
200 West Adams St., Suite 2850
Chicago, Il 60603

In re Application of:
Shunpei Yamazaki, et al
Serial No.: 09/707862 On Petition
Filing Date: November 7, 2000
For: LIGHT EMITTING DEVICE AND METHOD OF MANUFACTURING THE SAME

In response to the petition received December 8, 2003, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed February 15, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned April 17, 2001.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on December 8, 2003 for release to Technology Center 2871.

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Arthur J. Redfern	:	
Application No. 09/707,874	:	ON PETITION
Filed: November 7, 2000	:	
Attorney Docket No. TI-31367	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 17, 2004.

The Power of Attorney and Designation of Domestic Representative filed on December 27, 2004 is entered and made of record.

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

The file is being forwarded to Technology Center AU 2634.

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

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MAY 0 7 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 7

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Ave, N.W.
Washington, D.C. 20004-2401

In re Application of: Edward Walters et al.	)	
Application No. 09/707,910	)	
Filed: November 8, 2000	)	
For: APPARATUS AND METHOD FOR DISPLAYING RECORDS RESPONSIVE TO A DATABASE QUERY	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed January 14, 2002, by Clarence E. Polk, Jr.

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 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 Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(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

MAILED

MAY 0 8 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Ave, N.W.
Washington, D.C. 20004-2401

In re Application of: Edward Walters et al.
Application No. 09/707,910
Filed: November 8, 2000
For: APPARATUS AND METHOD FOR DISPLAYING RECORDS RESPONSIVE TO A DATABASE QUERY

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 8, 2002 by Mr. Thomas W. Krause.

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FILING COMPLETION UNDER RULE 53(f)

(NOT PCT Applications)
For Design, Provisional, or Utility Applications

PATENT APPLICATION

OIPE JUN 11 2001 JC142 PATENT & TRADEMARK OFFICE

COMPLETION Under Rule 53(f)

Attn: Application Division

In re PATENT APPLICATION of
Inventor(s): BRAHIM CHARI et al.

Appln. No.:	09	707,919	Atty.Dkt.	P	275327	0443-NF330/00
	Series Code ⇧	Serial No. ⇧			M#	Client Ref

Filed: November 8, 2000
Title: METHOD OF DETECTION OF ALLELIC VARIANTS OF SCA2 GENE

Hon. Commisioner of Patents
Washington,DC 20231

Date: June 11, 2001

Sir:

The following **completes the filing** under Rule 53(f) of the above-identified patent application:

1. **Notice to File Missing Parts** ☒ copy attached ☐ not yet received

2. ☒ Signed Declaration attached. ☒ Original ☐ Facsimile/Copy

(Always "X" box 2 if filling signed Declaration and
"X" box 2A only if top box of the Declaration is X'd and file application copy, or
"X" box 2B only if none of the top three boxes of the Declaration is X'd.)

2A. ☐ Attached: Original signed Declaration with attached specification (including claim(s)) which is a copy of specification and claim(s) originally filed to secure the above filing date.

2B. ☐ The original application as filed in the PTO on the above filing date is the application which each inventor executed by signing the attached Rule 63 Declaration.

3. ☐ Specification originally filed in non-English language; hence verified translation attached of:
   a. ☐ Abstract
   b. [#] pages of Specification(only spec. & claims)
   c. ☐ Drawing(s) _____ No of Sheets
      ☐ Fig(s). _____

4. ☐ Letter filing formal drawing attached.

5. ☒ Attached is an assignment and cover sheet. Please return the recorded assignment to the undersigned.

6. **DOMESTIC/INTERNATIONAL** priority is claimed under 35 USC 119(e)/120/365(c) based on the following provisional, nonprovisional and/or PCT international application(s):

Application No.	Filing Date	Application No.	Filing Date
(1)		(2)	
(3)		(4)	
(5)		(6)	

7. **FOREIGN** priority is claimed under 35 USC 119(a)-(d)/365(b) based on filing in _____

8.

Application No.	Filing Date	Application No.	Filing Date
(1)		(2)	
(3)		(4)	
(5)		(6)	

06/12/2001 HVUONG1 00000117 09707919
05 FC:116

Completion Under Rule 53(b)

9. _____ (No.) Certified copy (copies): ☐ attached; ☐ previously filed (date) _____
in U.S. Application No. _____/_____ filed on _____

10. Small Entity Status ø ☒ is Not claimed ☐ is claimed (file PAT-256 if this is the first claim of Small Entity Status)

11. ☐ Attached:

12. ☐ Preliminary Amendment:

THE FOLLOWING FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY ABOVE CANCELLED

				Large/Small Entity		Fee Code
13. Basic Filing Fee . . . . . Design Application Not Design Application				$320/$160 $710/$355	+710	106/26 101/201
14. Total Effective Claims	9	minus 20 =	0	x $18/$9	+0	103/203
15. Independent Claims	5	minus 3 =	2	x $80/$40	+160	102/202
16. If any proper multiple dependent claim (ignore improper) is present, (Leave this line blank if this is a reissue application)				$270/$135	+0	104/204
17. Surcharge for filing Declaration/filing fee late				$130/$65	+130	105/205
18.				FILING FEE ENCLOSED =	$1000	
19. **Original due date:** April 9, 2001						
20. **Petition is hereby made** to extend the original due date to cover the date this response is filed for which the requisite fee is attached			(1 mo) (2mos) (3mos) (4mos)	$110/$55 = $390/$195 = $890/$445 = $1390/$695 =	+390	115/215 116/216 117/217 118/218
21. If "non-English" box 3 is X'd, add Rule 17(k) processing fee				$130	+0	139
22. If "assignment" box 5 is X'd, add recording fee.				$40	+40	581
23. Petition Fee for				$130	+0	
24.				TOTAL FEE ENCLOSED =	$1430	

Our Deposit Account No. 03-3975
Our Order No. 51371 (C#) 275327 (M#)

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. **This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.**

Pillsbury Winthrop LLP
Intellectual Property Group

1100 New York Avenue, NW
Ninth Floor
Washington, DC 20005-3918
Tel: (202) 861-3000
Atty/Sec: BET/LMR

By Atty: Blair E. Taylor **Reg. No.** 44,370

Sig: Blair Elizabeth Taylor

Fax: (202) 822-0944
Tel: (202) 861-3797

NOTE: File in duplicate with PTO receipt (PAT-103A) and attachments

OIPE JC147
JUN 1 1 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
09/707,919	11/08/2000	Samir Brahmachari	PM 275327

CONFIRMATION NO. 9079

FORMALITIES LETTER

OC000000005753363

Pillsbury Madison & Sutro LLP
Intellectual Property Group
1100 New York Avenue NW
Ninth Floor
Washington, DC 20005-3918

Date Mailed: 02/09/2001

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).*
- Total additional claim fee(s) for this application is $160.
  - **$160** for **2** independent claims over 3 .
- The oath or declaration is missing.
- 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.
  - Applicant must provide:
    - A statement that the content of the paper or *compact disk copy* and computer readable copies 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).
- **The balance due by applicant is $ 1000.**

06/12/2001 HVUONG1 00000117 09707919
01 FC:101 710.00 OP
02 FC:105 130.00 OP
03 FC:102 160.00 OP

A copy of this notice MUST be returned with the reply.

Paula Britton

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

#19
DW

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

JUN 23 2004

Mark B Eisen
c/o Dimock Stratton Clarizio
20 Queen Street West
Suite 3202 Box 102
Toronto, ON
M5H3R3
Canada

MAILED

JUN 23 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Zaheer Khalfan
Application No. 09/708,038
Filed: November 8, 2000
For: OPTICAL PAPER SORTING METHOD DEVICE AND APPARATUS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on May 13, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on September 16, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/mjz: 6/22/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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

March 24, 2003

Frederick D. Bailey
Antonelli, Terry, Stout & Kraus
Suite 1800
1300 North Seventeenth St.
Arlington, VA 22209

In re application of:
ASTALA et al DECISION ON PETITION
Serial No.: 09/708,093
Filed: November 8, 2000
For: SYSTEM AND METHOD FOR VISUAL HISTORY PRESENTATION AND MANAGEMENT

This is a decision on the petition received on November 8, 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 February 1, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 3, 2001. The notice of abandonment was mailed October 31, 2002.

On November 8, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts mailed on March 27, 2001. The documents received on March 27, 2001 had the wrong serial number and were placed in the wrong application.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts mailed March 27, 2001.

The petition is hereby GRANTED.

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

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

COPY MAILED

FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael Lewis et al	:	
Application No. 09/708,124	:	DECISION ON PETITIONS
Filed: November 2, 2000	:	
Attorney Docket No. 53588-0027	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 31, 2008 under 37 CFR 1.34, to defer issuance.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petition under 37 CFR 1.34 is **DISMISSED** as Moot.

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 11, 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]

The petition under 37 CFR 1.34 is dismissed as moot in view of the filing of the petition under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issuance.

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

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

This application is being referred to Technology Center AU 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

Paper No. 7

MAILED

OCT 10 2002

Director's Office
Group 3700

In re Application of
MOORE, ALEXANDER FRASER
Application No.: 09/708,136
Filed: November 08, 2000

DECISION ON PETITION

This is a decision on petitioner's request filed January 10, 2002 to withdraw the Office Action mailed on September 25, 2001.

The petition is granted.

Petitioner points out that the application was filed with a Request for a Statutory Invention Registration (SIR) and that the Office action should be withdrawn since the application should not be examined.

A review of the application file indicates that the request for a SIR was filed on November 8, 2000 with the necessary fees.

In view of the above, the Office action mailed on September 25, 2001 is in error and is hereby vacated.

The application is being forwarded to TC3600 for processing of the Request for a SIR.

Richard A. Bertsch, Director
Technology Center 3700

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

C. Douglas McDonald
Carlton Fields, P.A.
P.O. Box 3239
Tampa, Florida 33601-3239

JUN 22 2001

In re Application of: Daniel L. Owen et al.)
Application No. 09/708,154)
Filed: November 7, 2000) DECISION ON REQUESTS FOR
For: SYSTEM, METHOD AND) WITHDRAWAL AS ATTORNEY
COMPUTER PROGRAM PRODUCT)
FOR A COLLABORATIVE)
DECISION PLATFORM)

This is a decision on the Requests To Withdraw from Representation filed June 8 and 20, 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 filed June 20, 2001 meets all the requirements. Accordingly the request is GRANTED. This filing supersedes the request dated June 8, 2001 which is DISMISSED as MOOT.

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: Kevin J. Zilka
P.O. Box 721120
San Jose, California 95172-1120

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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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Toshiaki Yasue	: DECISION ON REQUEST FOR
Patent Number	: 7665079	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/708,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1895** 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
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Alexandria, VA 22313-1450
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JJGJR.: 07-06

Paper No: __

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of :
Erickson, et al. :
Application No. 09/708,172 : DECISION
Filing Date: 7 November, 2000 :
Attorney Docket No.: 20583.00110 :

This is a decision on the petition filed on 12 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 Notice of Allowance/Allowability and Fees Due and Notice of Allowability mailed on 21 April, 2005, with reply due absent extension of time on or before 21 July, 2005;
- the instant application went abandoned after midnight 21 July, 2005;
- the Office mailed a Notice of Abandonment on 21 November, 2005 (and again on 26 May, 2006);
- on 12 June, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

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

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(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]

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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

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

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

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

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

[7] 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.

As to the Allegation
of Unintentional Delay

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

The record (including the petition filed on 12 June, 2006) does not necessitate a finding that the delay between midnight 21 July, 2005 (date of abandonment), and 12 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Erickson, Jurrius and McCoy and Counsel Doyle B. Johnson (Reg. No. 39,240) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

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

CONCLUSION

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

The instant application is released to 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

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 04/21/2005

Crosby Heafey Roach & May
Two Embarcadero Center
Suite 2000
P O Box 7936
San Francisco, CA 94120-7936

EXAMINER	
LEE, CHI HO A	
ART UNIT	**PAPER NUMBER**
2663	

DATE MAILED: 04/21/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

TITLE OF INVENTION: INTERCOM SYSTEM HAVING UNIFIED CONTROL AND AUDIO DATA TRANSPORT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	07/21/2005

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

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

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

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

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

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

If the SMALL ENTITY is shown as NO:

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

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

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

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

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

PTOL-85 (Rev. 12/04) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

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)

7590 04/21/2005

Crosby Heafey Roach & May
Two Embarcadero Center
Suite 2000
P O Box 7936
San Francisco, CA 94120-7936

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 (703) 746-4000, on the date indicated below.

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

TITLE OF INVENTION: INTERCOM SYSTEM HAVING UNIFIED CONTROL AND AUDIO DATA TRANSPORT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	07/21/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
LEE, CHI HO A	2663	370-442000

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

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

1 _____
2 _____
3 _____

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

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

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

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

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

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

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

7590 04/21/2005

Crosby Heafey Roach & May
Two Embarcadero Center
Suite 2000
P O Box 7936
San Francisco, CA 94120-7936

EXAMINER	
LEE, CHI HO A	

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 04/21/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 911 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 911 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

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

PTOL-85 (Rev. 12/04) Approved for use through 04/30/2007.

Notice of Allowability	Application No. 09/708,172	Applicant(s) ERICKSON ET AL.	
	Examiner Andrew Lee	Art Unit 2663	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *2/10/05*.

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

3. ☒ The drawings filed on *07 November 2000* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
   * Certified copies not received: _____.

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

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

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

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

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

Attachment(s)

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

ANDREW LEE
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

7590 11/08/2005

REED SMITH LLP
Two Embarcadero Center, Suite 2000
P. O. Box 7936
San Francisco, CA 04120-7936

EXAMINER	
LEE, CHI HO A	

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 11/08/2005

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

09/708172

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION

The drawings filed 11/6/00 have been received. However, an inconsistency exists between the drawings and the Brief Description of the Drawings in the specification.

Figures 7 are listed in the Brief Description of the Drawings in the specification but not contained in the Drawings.

Figures _____ are contained in the Drawings but not listed in the Brief Description of the Drawings in the specification.

Applicant is required to correct the above-noted inconsistency within a time period of **ONE MONTH or THIRTY (30) DAYS, whichever is longer,** from the mailing date of this Notice, or within the time remaining in the time period set forth in the Notice of Allowability (Form PTOL-37) to file corrected drawings, whichever is longer. **NO EXTENSION OF THIS TIME PERIOD MAY BE GRANTED UNDER EITHER 37 CFR 1.136 (a) OR (b)**

Failure to correct the above noted inconsistency will result in abandonment of the application.

The file will be held in the Publishing Division to await the correction of the inconsistency.

Return Corrected Drawings/Specification to:
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

Office of Patent Publication/Publishing Division
Customer Service: 703-308-6789
1-888-786-0101

FORM PTO-1631 (REV. 10-03)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

7590 11/21/2005

REED SMITH LLP
Two Embarcadero Center, Suite 2000
P. O. Box 7936
San Francisco, CA 04120-7936

EXAMINER	
LEE, CHI HO A	

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 11/21/2005

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

Notice of Abandonment	Application No. 09/708,172	Applicant(s) Erickson	
	Examiner Lee	Art Unit 2663	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☒ The submitted fee of $*0* is insufficient. A balance of $*1400* is due.
   The issue fee required by 37 CFR 1.18 is $*1400*. The publication fee, if required by 37 CFR 1.18(d), is $*0*.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

lgd

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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.
09/708,172	11/07/2000	Timothy Lee Erickson	20583.00110	1129

58076 7590 05/26/2006

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

EXAMINER	
LEE, CHI HO ANDREW	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 05/26/2006

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

Notice of Abandonment	Application No.	Applicant(s)	
	09/708,172	ERICKSON	
	Examiner	Art Unit	
	LEE	2616	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☒ The submitted fee of $*0* is insufficient. A balance of $*1400* is due.
   The issue fee required by 37 CFR 1.18 is $*1400*. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

lgd

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

OIPE JC1-6
JUL 0 2 2004
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JWC/WAC (SC)

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Woodcock Washburn

Paper No.

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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

In re Application of
Muthaiah Manoharan et al
Application No. 09/708,224
Filed: November 8, 2000
Attorney Docket No. ISIS-4388

ON PETITION

This is a decision on the petition, filed February 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 December 13, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

RECEIVED
FEB 2 5 2004
Lillian Schultz
Woodcock Washburn

RECEIVED
FEB 2 4 2004
DOCKET DEPT.
WWKMN

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

Paper No. 5

C. Douglas McDonald
Carlton Fields, P.A.
P.O. Box 3239
Tampa, Florida 33601-3239

JUN 22 2001

In re Application of: Daniel L. Owen et al.
Application No. 09/708,244
Filed: November 7, 2000
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR A CUSTOMER-CENTRIC COLLABORATIVE PROTOCOL

DECISION ON REQUESTS FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Requests To Withdraw from Representation filed June 8 and 20, 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 filed June 20, 2001 meets all the requirements. Accordingly the request is **GRANTED**. This filing supersedes the request dated June 8, 2001 which is **DISMISSED** as **MOOT**.

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: Kevin J. Zilka
P.O. Box 721120
San Jose, California 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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JUL 20 2005

OFFICE OF PETITIONS

In re	:
Nabel, et al.	: DECISION REGARDING
Application No. 09/708,276	: PATENT TERM ADJUSTMENT
Filed: November 7, 2000	:
Patent No. 6,884,431	:
Issued: April 26, 2005	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed May 23, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On April 26, 2005, the above-identified application issued into patent no. 6,884,431, with a patent term adjustment (PTA) of one hundred twenty-two (122) days. On May 23, 2005, applicants submitted the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT". Applicants state that the PTA of 122 days "may extend the term of this patent by too many days."

The Office initially determined a patent term adjustment of one hundred twenty-two (122) days based on an adjustment for PTO delay of seventy-six (76) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), and one hundred fifty-nine (159) days pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 C.F.R. § 1.703(b)(1), reduced by seventy-six (76), one (1),

and thirty-eight (38) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Review of the record indicates that the PTA of one hundred twenty-two (122) days as indicated on the patent is correct. It is true that applicants filed a terminal disclaimer on August 8, 2003. However, In calculating the PTA, the Office does not differentiate between patents that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the PTA indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As the application file has already issued into a patent, the file is being returned to Files Repository.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/17/00

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: RE39,265

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 **7590, 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.

Delora Dillard
Certificates of Correction Branch
Tel. No. 703-308-9250 ext. 172

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:

In the interest of not having another COC printed because the COCIN was approved and entered by someone else and the COCOUT has been scanned containing Director Dudas' signature dated October 2, 2007

SPE

1624
Art Unit

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

Copied from 10663448 on 06/12/2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/17/00

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: RE39,265

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 **7590, 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.

Delora Dillard
Certificates of Correction Branch
Tel. No. 703-308-9250 ext. 172

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:
COCX of 10/2/07 is approved by SPE, James O. Wilson

SPE 1624 Art Unit

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

Copied from 10663448 on 06/12/2008

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United States Patent and Trademark Office
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FEB 16 2007

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of :
Izumi Miyake :
Application No. 09/708,630 : ON PETITION
Filed: November 9, 2000 :
Attorney Docket No. 0879-0288P :

This is a decision on the petition, filed February 15, 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 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 2616 will consider the request for continued examination under 37 CFR 1.114.

/Karen Creasy/

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 08-01

Paper No. 7

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

JUL 03 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Kendall A. Smith : DECISION GRANTING PETITION
Application No. 09/708,635 :
Filed: 22 September, 2000 :
Attorney Docket No. 2650/1F918-U :

This is a decision on the petition filed on 29 January, 2001, requesting that the above-identified application be accorded a filing date of 22 September, 2000.

Petitioner asserts that the application was originally filed on 22 September, 2000, but was lost after receipt by the U.S. Patent and Trademark Office. In support of the petition, petitioner submitted (1) a postcard receipt for the instant application date-stamped 22 September, 2000, by the Office of Initial Patent Examination (OIPE) and containing the invention title, inventor's name, docket number, and attorney's initials, and which itemizes the filing of, *inter alia*, 53 pages of specification, 2 pages of claims, 1 page of abstract, and 5 sheets of drawings.

Based on the evidence present in the file, it is concluded that the present application was filed on 22 September, 2000, but was subsequently misplaced in the Office.

Accordingly, the petition is granted. As this petition was necessitated by USPTO error, the $130.00 petition fee submitted with the present petition is unnecessary. Petitioner may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application is being forwarded to Office of Initial Patent Examination (OIPE) for correction of the filing date to 22 September, 2000.

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Paper No. 8

JAMES G. GATTO, ESQ
HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006-1109

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JAN 1 5 2002

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
Peterson et al.	: UNDER 37 CFR 1.53(b)
Application No. 09/708,713	: AND REFUSING STATUS
Filed: 9 November, 2000	: UNDER 37 CFR 1.47(b)
Atty Dckt No. 47382.000111	:

This is in response to the petition filed on 11 October, 2001, requesting that the above-identified application be accorded a filing date of 9 November, 2000. This is also a decision on the petition under 37 CFR 1.47(b) filed on 13 November, 2001,

The petition under 37 CFR 1.53(b) is **GRANTED**.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

PETITION UNDER 37 CFR 1.53(b)

The application was deposited on 9 November, 2000. On 10 April, 2001, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the

specification was missing.

A review of the official file reveals that a copy of the specification, including claims, and drawings of U.S. Patent 5,726,450, of which this application is a continuation of a reissue application, is located among the application papers received on 9 November, 2000. As such, the application was complete on 9 November, 2000, and entitled to a filing date of that date.

PETITION UNDER 37 CFR 1.47(b)

In response to the Notice of Incomplete Application filed on 10 April, 2001, which required a signed oath or declaration, petitioners filed on 13 November, 2001,[1] the present petition, accompanied by a declaration naming Jay Peterson, David R. Nelson, Troy P. Bahan, George C. Polchin, and Michael D. Jack as joint inventors and signed by petitioners' registered patent attorney, Christopher Cuneo, on behalf of Environmental Systems Products Holdings, Inc., parent corporation of assignee Envirotest Systems Corporation, and a petition for a five (5) month extension of the time to reply to the Notice of Incomplete Application.

Petitioners assert that a copy of reissue Application No. 09/521,858, a preliminary amendment, and the declaration for the present application was sent to each of the inventors. Petitioners assert that joint inventors Peterson, Nelson, Polchin, and Jack failed to sign and return the declaration. Petitioners further assert that the papers sent to joint inventor Bahan were returned as undeliverable. Petitioners have also shown that the inventors assigned their interest in the invention to HE Holdings, Inc. DBA Hughest Electronics, which assigned its interest to Hughes Aircraft Company, which in turn assigned its interest to Envirotest Systems Corporation.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35

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[1] 10 November, 2001, fell on a Saturday, and 12 November, 2001, fell on a Federal holiday, so the response filed on 13 November, 2001, was timely filed. See 37 CFR 1.7(a).

U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks item (1).

In regards to item (1), petitioner has not provided sufficient proof that a copy of the application as filed was sent or given to the non-signing inventor for review.[22] Rather, the declaration of petitioners' registered patent counsel, Christopher Cuneo, is that a copy of the prior application, No. 09/521,858, was sent to the inventors and that subsequently an amendment and the declaration for the present application was sent to each of the inventors. Before a *bona fide* refusal to sign can be alleged, petitioners must show that a copy of the application as filed (specification, including claims, drawings, if any, and the declaration) must be sent or given to each joint inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners must provide a copy of that written refusal with any renewed petition. If the refusal is made orally, then the person to whom the refusal was made must provide details of the refusal in an affidavit or a declaration of facts.

Additionally, a brief Internet search shows that joint inventor Bahan, whom petitioners assert could not be found, may be living in Goleta, CA. Petitioners should investigate whether a more recent address is available for joint inventor Bahan. If a current address is found, a copy of the application papers should be sent to joint inventor Bahan at the last known address. If continued attempts to send or give a copy of the application to, and obtain an executed declaration from, Bahan fail, then

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[2] MPEP 409.03(d).

petitioner will have shown a refusal to sign the declaration based on conduct. The proof of pertinent events should be made by an affidavit or declaration of facts by a person with first-hand knowledge of the details.

Although petitioners submitted a check for $2,220.00 with the petition filed on 13 November, 2001, that check was returned as unpaid on 19 November, 2001. As a result, counsel's deposit account, No. 50-0311, will be charged $1,960.00 for the five (5) month extension of time, $130.00 for the petition under 37 CFR 1.47(b) fee, $130.00 for the late filing surcharge, and the $50.00 processing fee due for a returned check. The $130.00 fee for the petition under 37 CFR 1.53 filed on 11 October, 2001, will be refunded to counsel's deposit account.

It is additionally noted that although this application is a continuation of a reissue application, it was not processed with a reissue application folder. The application will be returned to OIPE for reprocessing in a reissue application folder after a grantable petition under 37 CFR 1.47(a) is filed.

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

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

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

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

Telephone inquiries related to this decision should be directed to Douglas I. Wood at (703)308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

JOHN R. CARR
FENWICK & WEST LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO , CA 94306

MAIL

APR 1 0 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Andreas Schilling, et al.
Application No.: 09/708,775
Filed: November 7, 2000
For: SYSTEM & METHOD FOR MAPPING TEXTURES ONTO SURFACES OF COMPUTER-GENERATED OBJECTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed, February 7, 2001.

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

The request is **GRANTED**.

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

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

cc: Susan Yee, Esq.
Carr & Ferrell LLP
2225 E. Bayshore Road, Suite 200
Palo Alto, CA 94303

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Paper No. 18

Mintz, Levin, Cohn, Ferris
Glovsky & Popeo, P.C.
One Financial Center
Boston, MA 02111

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DEC 12 2003

OFFICE OF PETITIONS

In re Application of
Sean Farmer
Application No. 09/708,870
Filed: November 8, 2000
Attorney Docket No. 19374-509 (GND-09)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2003, to revive the above-identified application.

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

In response to the non-final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, an amendment with response, and $740 for a four (4) months extension of time.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $740 extension of time submitted with the petition on November 26, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center 1600, for further review of the amendment and response filed with the instant petition.

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

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

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Alexandria, VA 22313-1450
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WK

Mailed: 8/19/05

In re application of	:	
Schaefer et al.	:	DECISION ON
Serial No. 09/708,925	:	PETITION
Filed: November 8, 2000	:	
For: LOW TEMPERATURE RENDERING PROCESS, AND MEAT PRODUCT	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 08, 2003, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the declaration of Daniel Schaefer filed August 11, 2003 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

09/708, 925

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Dennis R. Daley
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota
55402-0903

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 7, 2006

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/708925 patent No.: 6,949,265

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: _____

_____

_____

_____

_____

_____ 1794

SPE **Art Unit**

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P O BOX 2550
SALT LAKE CITY, UT 84110

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Salman Akram	:	
Application No. 09/708,932	:	DECISION GRANTING PETITION
Filed: November 8, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3434.1US(97-856.1)	:	

This is a decision on the petition, filed May 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1722 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
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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MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
Salman Akram :
Application No. 09/708,932 : DECISION GRANTING PETITION
Filed: November 8, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3434.1US(97-856.1) :

This is a decision on the petition, filed March 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1722 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 13

Venable LLP
P.O. Box 34385
Washington, DC 20043-9998

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JAN 14 2004

OFFICE OF PETITIONS

In re Application of
Fritz Hösel, et. al.
Application No. 09/708,967
Filed: November 9, 2000
Attorney Docket No. 32368-165935

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 20, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1,330 for the petition to revive fee, $950 for a three (3) months extension of time, and an amendment.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on December 29, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center 2100, for further review of the amendment filed with the instant petition.

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

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

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VENABLE LLP
PO BOX 34385
WASHINGTON DC 20043-9998

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Hösel, et al.	:	DECISION ON APPLICATION
Application No. 09/708,967	:	FOR PATENT TERM ADJUSTMENT
Filed: November 9, 2000	:	AND NOTICE OF INTENT
Patent No. 7,203,567	:	TO ISSUE CERTIFICATE
Issued: April 10, 2007	:	OF CORRECTION
Attorney Docket No. 32368-165935	:	

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT", filed January 24, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED** to the extent indicated herein. The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred twenty (320)** days.

On April 10, 2007, the above-identified application issued into Patent No. 7,203,567 with a patent term adjustment of three hundred thirty-six (336) days. Prior to issuance, applicants filed the instant application for patent term adjustment, pointing out that the correct patent term should only be three hundred twenty-one (321) days.

The Office determined a patent term adjustment of three hundred thirty-six (336) days based on an adjustment for PTO delay of four hundred ninety-six (496) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by one hundred thirty-one (131) and twenty-nine (29) days pursuant to 37 C.F.R. §1.704(b).

A review of the record reveals that Applicants should have been assessed a delay of one hundred forty-seven (147) days, not one hundred thirty-one (131) days. The Office mailed a non-final Office action on May 20, 2003. Applicants failed to timely file a proper reply. Accordingly, the application became abandoned on August 21, 2003. Applicants filed a petition to revive, together with an amendment and a three month extension of time, on December 29, 2003.[1] The petition to revive was granted in a decision mailed on January 14, 2004.

37 C.F.R. § 1.704(c)(3) states:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

[1] However, by that time it was too late for applicants for submit a three month extension of time. The last day a three month extension of time could have been filed in order to prevent abandonment would have been November 20, 2003.

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicants should have been assessed delay for the period from August 21, 2003 (the date the application became abandoned) to January 14, 2004 (the date the decision reviving the application was mailed), or 147 days.

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 correct number of days of patent term adjustment is three hundred twenty (320) days (496 days of PTO delay, reduced by 176 (147+29) days of applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 C.F.R. §1.705(b) was not required, and has not been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The matter is being forwarded to the 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 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred twenty (320)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,203,567 B1

DATED : April 10, 2007

INVENTOR(S) : Hösel, et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (336) days

Delete the phrase "by 336 days" and insert – by 320 days—

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WASHINGTON, D.C. 20231
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Paper No. 7

WAGNER MURABITO & HAO
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THIRD FLOOR
SAN JOSE, CA 95113

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APR 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Francis James Canova Jr. et al	:	
Application No. 09/709,142	:	ON PETITION
Filed: November 8, 2000	:	
Attorney Docket No. PALM-3530.P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 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 February 14, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 15, 2001.

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

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

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JUL 30 2001

OFFICE OF PETITIONS
A/C PATENTS

BRADLEY T. SAKO, ESQ.
3954 LOCH LOMAND WAY
LIVERMORE, CA 94550

In re Application of
Raccah et al.
Application No. 09/709,187
Filed: November 10, 2000
Attorney Docket No. ZAM-0001

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed on May 17, 2001, requesting that a Notice to File Missing Parts ("Notice"), mailed on March 14, 2001 for the above-identified application, be partially withdrawn to the extent that it refers to an omitted Figure 6D.

The petition is DISMISSED.

The application was filed on November 10, 2000. However, on March 14, 2001, the Initial Patent Examination Division mailed the Notice stating that the application had been accorded a filing date, and advising Applicants that Figure 6D described in the specification appeared to have been omitted from the filed application. The Notice further states that an oath or declaration was missing.

In response, the present petition was filed wherein Petitioners contend that Figure 6D was submitted on November 10, 2000 along with the remainder of the application. In support, the petition encloses a "copy" of the originally filed application, including **7 sheets** of drawings, and a declaration by Counsel authenticating this "copy" as being a copy of the application filed on November 10, 2000.

Despite Counsel's declaration, where, as in here, there is a question regarding whether a document was received by the Office, the Office will rely on its official records, i.e., the contents of the pertinent application file, absent convincing evidence[1] suggesting that the Office has received and subsequently misplaced that document which is not contained in the Office file for this application.[2] The Office file for this application includes **6 sheets** of drawings containing Figures 1, 2, 3A, 3B, 4, 5, 6A, 6B, 6C, 7, 8, but not a Figure 6D. This is consistent with the transmittal form for the application which indicates that **6 sheets** of drawings were enclosed with the application.

In view of the above, the Office concludes that Figure 6D, which occupies 1 sheet of drawing, was not filed on November 10, 2000. The petition is thus dismissed.

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1 E.g., a postcard receipt in accordance with MPEP 503 (Rev. 1, Feb. 2000).

2 See MPEP 513 (Rev. 1, Feb. 2000).

In addition, the Office acknowledges receipt of the Declaration.

The application is being returned to the Initial Patent Examination Division for further processing with a filing date of November 10, 2000, using the 6 sheets of drawings filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

APR 18 2005

OFFICE OF PETITIONS

In re Patent No. 6,838,552	:	
Mitchell et al.	:	
Issue Date: January 4, 2005	:	DECISION ON
Application No. 09/709,201	:	REQUEST FOR RECONSIDERATION
Filed: November 8, 2000	:	OF PATENT TERM ADJUSTMENT
Atty Docket No. 50150/007002	:	
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed December 27, 2004. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected to one hundred forty-five (145) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

Patentees are given two (2) months from the mail date of this decision to respond. Extensions of time under § 1.136(a) are not permitted.

On January 4, 2005, the application matured into U.S. Patent No. 6,838,552, with a revised patent term adjustment of 32 days. Prior to issuance, on December 27, 2004, patentees filed the instant request, which is properly treated as a request for reconsideration of patent term adjustment. Patentees stated that the correct patent term adjustment is 145 days. Patentees requested the correction on the basis that the Office failed to issue a patent within "four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding

requirements were satisfied." Patentees stated that the issue fee was paid and all outstanding requirements were satisfied on April 12, 2004. Patentees further stated that as the issue date for the patent shown in PAIR is January 4, 2005, the period of delay exceeding the 4-month time limit for patent issuance is 145 days.

The Office initially determined a patent term adjustment of zero (0) days based on periods of adjustment totaling 282 days for Office delay reduced by periods totaling 395 days for applicant delay. Patentees did not file an application for patent term adjustment pursuant to § 1.705(b) prior to payment of the issue fee on April 12, 2004.

After the mailing of the notice of allowance, the requested period of adjustment of 145 days, pursuant to § 1.702(a)(4), was entered for Office delay in issuing the patent. However, with this entry, the revised patent term adjustment equals thirty-two (32) days ((282 + 145 days for Office delay) - (395 days for applicant delay)), not 145 days.

In view thereof, it is concluded that the revised patent term adjustment indicated in the patent of thirty-two (32) days is correct.

The Office acknowledges submission of $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to Files Repository for storage as a patented file.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 30, 2005

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 6,914,105

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:

FRED TESKIN
PRIMARY EXAMINER
SPE

1713
Art Unit

APR 18 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/709,211
Filing Date	11/09/2000
First Named Inventor	Gregg Williams
Art Unit	3623
Examiner Name	Catherine M. Colon
Attorney Docket Number	020508-000100US

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED
JUN 16 2005

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ all the attorneys/agents associated with Customer Number **20350**

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: As requested by the client.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm *or* Individual Name	Melvin D. Chan, Esq.				
Address	Aka Chan LLP 900 Layfayette Street, Suite 710				
City	Santa Clara	State	CA	Zip	95050
Country	USA				
Telephone	408-701-0035	Fax	408-608-1599		

Signature	William L Shaffer		
Name	William L. Shaffer	Registration No.	37,234
Date	4/14/05	Telephone No.	650-326-2400

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/05/2010

Applicant	: Fengduo Hu	: DECISION ON REQUEST FOR
Patent Number	: 6757575	: RECALCULATION of PATENT
Issue Date	: 06/29/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/709,247	: OF WYETH
Filed	: 11/09/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR - 5 2004

Paper No. 10

In re Application of
Brett T. Hannigan *et al*
Application No. 09/709,255
Filed: November 8, 2000
Attorney Docket No. P0243

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on February 24, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure as a result of petitioner's failure to file a timely and proper reply to the final Office action dated June 10, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners in fact timely filed both a notice of appeal and the fee therefor on September 12, 2003, as well as an appeal brief and the fee therefor on December 16, 2003.

Petitioners have supported these allegations by including copies of the notice of appeal and a filing receipt therefor showing that a notice of appeal which included a fee authorization was received in the Office on September 12, 2003, as well as copies of an appeal brief which included a fee authorization and a filing receipt therefore showing that the appeal brief was received in the Office on December 16, 2003. It is noted that the notice of appeal was timely filed by reason of a 37 CFR 1.8(a) certificate of mailing dated September 10, 2003 affixed thereto. It is further noted that the appeal brief was timely filed by reason of the concurrent filing of a petition for a one month extension of time, the extension fee, and a 37 CFR 1.8(a) certificate of mailing dated December 11, 2003 affixed thereto. Based upon this evidence, it is clear that this application is not abandoned. In addition, Office financial records confirm receipt of the notice of appeal fee, the fee for filing the appeal brief, and the fee for the extension of time.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to enter the notice of appeal, appeal brief, and extension of time described above. In addition, the Head Supervisory Applications Examiner will have two additional copies of the appeal brief made. Thereafter, the application will be forwarded to the examiner for immediate action on the appeal brief filed on December 16, 2003, certificate of mailing date December 11, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Digimarc Corporation
19801 SW 72ND Avenue
Suite 100
Tualatin, OR 97062

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JUL 23 2007

OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Application of
Hannigan, et al.
Application No. 09/709,255
Filed: November 8, 2000
Atty. Dkt. No.: P0243

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (Request for Reconsideration of PTO's Patent Term Adjustment Determination) (37 CFR 1.705(b)," filed January 9, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED AS UNTIMELY**.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days, as indicated on the Determination of Patent Term Adjustment mailed September 6, 2006, to an adjustment of 54 days.

In accordance with 37 CFR 1.705(b), an application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of Allowance. The issue fee was submitted in the instant application on December 6, 2006. The instant application for patent term adjustment was filed January 9, 2007. Accordingly, the application for patent term adjustment is subject to dismissal, having been untimely submitted.

Accordingly, at the time of allowance, the application is entitled to an adjustment of zero days as indicated on the Determination of Patent Term Adjustment.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6313688
Issue Date: November 6,2001
Application No. 09709315
Filed: November 13,2000
Attorney Docket No. GCT-01P4

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

This is a decision on the electronic petition, filed April 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6313688	2001-11-06	09709315	2000-11-13	GCTS-001P4

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Patrick D. Muir/	Date (YYYY-MM-DD)	2010-04-29
Name	Patrick D. Muir, Reg. #37403	Registration Number	37403

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, NW
SUITE 1750
ATLANTA GA 30339-5948

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AUG 09 2006

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,879,678 :
Issue Date: April 12, 2005 :
Application No. 09/709,343 :
Filed: November 13, 2000 :
Attorney Docket No. 9-14798-5US :

This is a decision on the petition filed February 10, 2006, which is being treated under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DEC 22 2004

NIXON & VANDERHYE, PC
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201-4714

In re Application of :
Isabelle Preuilh et al :
Serial No.: 09/709,477 : PETITION DECISION
Filed: November 13, 2000 :
Attorney Docket No.: 2365-23 :

This is in response to the petition under 37 CFR 1.181, filed October 5, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. .

A review of the file history shows that the examiner mailed an Office action to applicants on November 25, 2003, in response to an amendment filed October 8, 2003, setting a three month shortened statutory period for reply. Applicants filed a supplemental reply to the October 8, 2003, reply on December 15, 2003, but which did not respond to the Office action of November 25, 2003. Upon failure to receive a reply to the Office action of November 25, 2003, the Office mailed a Notice of Abandonment to applicants on October 4, 2004. Applicants state that the Office action of November 25, 2003, was never received and provide a statement and copies of docket records establishing that the Office action was not received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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MAR 2 7 2003

Technology Center 2100

Paper No. 6

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

In re Application of:)
Rudy Bonefas et al.)
Application No. 09/709,487) **DECISION ON REQUEST FOR**
Filed: November 13, 2000) **WITHDRAWAL AS ATTORNEY**
For: A METHOD AND SYSTEM FOR)
DEPLOYING CONTENT TO
WIRELESS DEVICES

This is a decision on the Request To Withdraw from Representation filed March 19, 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 March 19, 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: Brad Aaron
AETHER SYSTEMS, INC.
11469 Cronridge Drive
Owings Mills, MD 21117

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/709,487	12/18/00	RUDY BONEFAS, ET AL	35825-164451

Title: **A METHOD AND SYSTEM FOR DEPLOYING CONTENT TO WIRELESS DEVICES**

Art Unit	Paper Number

Correspondence Address:
JEFFRI A. KAMINSKI
VENABLE, BAETJER, HOWARD & CIVILETTI, LLP
1201 NEW YORK AVENUE, N.W., SUITE 1000
WASHINGTON, D.C. 20005-3917

6400 12/22/00

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LICENSE FOR FOREIGN FILING

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

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Mailed: JUL 14 2005

In re application of Ernesto Marelli Serial No. 09/709,581 Filed: November 13, 2000 For: DIESEL ENGINE FUEL IN MICROEMULSION FROM AND METHOD FOR PREPARING	:	DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAW OF ABANDONMENT filed April 28, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 5, 2004, for failure to timely file a proper reply to the Office letter mailed July 29, 2003, be withdrawn since applicants did timely file a response by facsimile transmission on November 27, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on November 27, 2003. The evidence provided includes a Facsimile Transmission Report and a Certification of Facsimile Transmission. Any holding of abandonment for failure to timely file a proper reply to the Office letter mailed July 29, 2003, therefore, is hereby vacated.

In view of the Notice of Rescinded Abandonment previously mailed by the USPTO on September 3, 2004, the application was returned to pending status. Accordingly, the Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MODIANO & ASSOCIATES
Via Meravigli 16
Milano, Italy 20123

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MODIANO & ASSOCIATI
VIA MERAVIGLI 16
MILANO 20123
ITALY

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Ernesto Marelli :
Application No. 09/709,581 : DECISION ON PETITION
Filed: 13 November, 2000 :
Atty Docket No. 33885/GM/LP :
:

This is a decision on the petition filed on 17 November, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 April, 2005, for failure to timely file the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 3 January, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 25 October, 2005.

---

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

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

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

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

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

The application 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 20

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ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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SEP 0 4 2002

OFFICE OF PETITIONS

In re Application of
Michael J. Treuheit et al
Application No. 09/709,704
Filed: November 9, 2000
Attorney Docket No. A-584

ON PETITION

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 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 October 10, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 11, 2002.

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

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 1655.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT M BAUER, ESQ.
LACKENBACH SIEGEL, LLP
1 CHASE ROAD
SCARSDALE NY 10583

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
FACCIN, et al. :
Application No. 09/709,716 :
Filed: November 13, 2000 :
Attorney Docket No. **NOKIA.29US** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on June 30, 2007 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 Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 2617 for consideration of the amendment filed June 30, 2007

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Docket No. NOKIA.29US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Stefano FACCIN, et al.
Application No.:	09/709,716
Filing Date:	November 13, 2000
Title:	TELEPHONY SERVICES IN MOBILE IP NETWORKS
Art Unit:	2617
Examiner:	Temica M. Beamer

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

January 31, 2007

AMENDMENT

Sir:

In response to the Office Action dated July 31, 2006, applicants submit this Amendment in the above-identified application. Please amend the application as follows:

Amendments to the claims begin on page 2 of this paper.

Remarks/Arguments appear on page 11 of this paper.

Adjustment date: 02/13/2008 CKHLOK
07/03/2007 MGEBREM1 00000102 100100 09709716
01 FC:1253 1020.00 CR

07/03/2007 MGEBREM1 00000102 100100 09709716
01 FC:1253 1020.00 DA

PAGE 4/15 * RCVD AT 6/30/2007 9:48:52 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/19 * DNIS:2738300 * CSID:914 723 4301 * DURATION (mm-ss):03-38

REMARKS

Claims 1-4, 6-16, 20-24, 26-29, 41, 49, 50, 52, 53, 55, 56, and 61-66 are pending in this application. Claims 1, 27, 29, 41, 50 and 61 are independent. This Amendment has amended claims 41, 50, 55, and 56, and cancelled claims 33-40, 42-48, 51, 57-60 and 67 without prejudice to their continued prosecution in a continuation application.

Applicants gratefully acknowledge the Office Action dated July 31, 2006. Claims 33, 36, 40, 42, 49, 51 and 67 were rejected under 35 USC 102(b) as being anticipated by prior art. However, claims 1-4, 6-16, 20-24, 26-29 and 61-66 were allowed, and claims 34, 35, 37-39, 41, 43-48, 50, 52-57 and 60 were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In this Amendment, applicants have cancelled claims 33-40, 42-48, 51, 57-60 and 67. Applicants have amended dependent claims 41 and 50 to be independent form including all of the limitations of the independent claims from which they originally depended. Applicants have also amended claims 41, 50, 55 and 56 to remove parentheses that could be misconstrued as limitations on the claims. Although rejected, applicants respectfully submit that claim 49, dependent on claim 41, is allowable for at least the same reason as claim 41. Thus, claims 41, 49, 50, 52, 53, 55 and 56 are now in condition for allowance.

Conclusion

Applicants submit that this Amendment has placed the application in condition for allowance according to the indications in the Office Action. The prompt mailing of a Notice of Allowance is therefore respectfully requested.

Docket No. NOKIA.29US

Applicants hereby Petition for a Three Month Extension of Time to the Response Period set forth in the Office Action. Please charge the extension fee, and any other fee due in connection with the filing of this Amendment or to avoid abandonment of this application, to Deposit Account No. 10-0100 (Dkt. No. NOKIA.29US).

Respectfully submitted,

Robert M. Bauer, Registration No. 34,487
Lackenbach Siegel, LLP
One Chase Road
Scarsdale, NY 10583
Tel.: (914) 723-4300
Fax: (914) 723-4301

PAGE 15/15 * RCVD AT 6/30/2007 9:48:52 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/19 * DNIS:2738300 * CSID:914 723 4301 * DURATION (mm-ss):03-38 P.15

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 02/11/08

2 Serial/Patent # 09/709,716

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time 1253	A...	06/30/07	$ 1,020.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1,020.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 0 -- 0 1 0 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension submitted subsequent to the maximum extendable period for response.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: _____ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

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ROBERT M BAUER, ESQ.
MACDONALD ILLIG JONES & BRITTON LLP
SUITE 700
100 STATE STREET
ERIE PA 16507-1459

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OFFICE OF PETITIONS

In re Application of
FACCIN, Stefano et al.
Application No. 09/709,716
Filed: November 13, 2000
Attorney Docket No. **NOKIA.29US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Robert Bauer on behalf of all attorneys of record who are associated with customer No. 43829. All attorneys/agents associated with the Customer Number 43829 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address 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 September 03, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **STEFANO FACCIN**
3421 DARTMOOR
DALLAS TX 75229-2622

cc: **BANNER & WITCOFF**
1100 13TH STREET
SUITE 1200
WASHINGTON DC 20005-4051

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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Stefano Faccin	: DECISION ON REQUEST FOR
Patent Number	: 7623447	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/709,716	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2570** 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 15 2001
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Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/709,785
Filing Date	November 3, 2000
First Named Inventor	Anne N. Murphy
Group Art Unit	1645
Examiner Name	
Attorney Docket No.	660088.433C1

ENCLOSURES (*check all that apply*)

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] 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 C.F.R. 1.52 or 1.53
- [ ] Assignment Papers (*for an Application*)
- [ ] Drawing(s)
- [ ] General Authorization under 37 C.F.R. § 1.36(a)(3)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [x] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Small Entity Statement
- [ ] Request for Refund
- [ ] CD(s), 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
- [x] Additional Enclosure(s) (*please identify below*):

Return Receipt Postcard

Declaration

Copy of Assignment

Copy of Notice to File Missing Parts

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Individual Name/ Firm Name	Stephen J. Rosenman, Ph.D. **Seed Intellectual Property Law Group** PLLC 701 Fifth Avenue, Suite 6300 Seattle, Washington 98104-7092 Phone: (206) 622-4900 Fax: (206) 682-6031
Signature	Stephen J. Rosenman
Date	3-15-01

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PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING

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

Typed or printed name		
Signature		Date:

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PTO/SB/17 (11-00)
Approved for use through 10/31/2002. OMB 0651-0032

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) **1,627**

Complete if Known	
Application Number	**09/709,785**
Filing Date	**November 3, 2000**
First Named Inventor	**Anne N. Murphy**
Examiner Name	
Group Art Unit	**1645**
Attorney Docket No.	**660088.433C1**

METHOD OF PAYMENT

1. [ ] *The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:*

Deposit Account Number: **19-1090**

Deposit Account Name: **Seed Intellectual Property Law Group PLLC**

[X] Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

[X] Applicant claims small entity status. See 37 CFR 1.27

2. [X] Payment Enclosed:

[X] 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	355
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)	($)355

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims	108	-** =	88	X	9	=	792
Independent Claims	10	-** =	7	X	40	=	280
Multiple Dependent				X		=	135

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) ($)1,207

**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	65
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	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)	
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) ($) 65

SUBMITTED BY

Name (Print/Type)	**Stephen J. Rosenman, Ph.D.**	Registration No. Attorney/Agent)	**43,058**
Firm Name/ Address	**Seed Intellectual Property Law Group PLLC** 701 Fifth Avenue, Suite 6300 Seattle, Washington 98104-7092 Phone: (206) 622-4900 Fax: (206) 682-6031 U:\KarenWill\SJR\MitoKor II\1851.doc		
Signature	Stephen J. Rosenman	Date	3-15-01

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OIPE JC154
MAR 15 2001
PATENT & TRADEMARK OFFICE

EXPRESS MAIL NO. EL773171212US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Anne N. Murphy, et al.
Application No.	:	09/709,785
Filed	:	November 3, 2000
For	:	COMPOSITIONS AND METHODS FOR DETERMINING INTERACTIONS OF MITOCHONDRIAL COMPONENTS, AND FOR IDENTIFYING AGENTS THAT ALTER SUCH INTERACTIONS
Docket No.	:	660088.433C1
Date	:	March 15, 2001

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Commissioner for Patents:

In response to the Notice to File Missing Parts dated January 15, 2001, please find enclosed the following documents:

X	Check
X	Return Receipt Postcard
X	PTO/SB/21
X	PTO/SB/17 (+1 copy)
X	Response to Notice to File Missing Parts (+1 copy)
X	Declaration
X	Election and Power of Attorney
X	Copy of Assignment
X	Copy of Notice to File Missing Parts

Respectfully submitted,
Anne N. Murphy, et al.
Seed Intellectual Property Law Group PLLC

Stephen J. Rosenman

Stephen J. Rosenman, Ph.D.
Registration No. 43,058

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PATENT AND TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/709,785	11/03/2000	Anne N. Murphy	660088.433C1

FORMALITIES LETTER

OC000000005679111

Stephen J Rosenman PhD
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-7092

Date Mailed: 01/15/2001

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).*
- Total additional claim fee(s) for this application is $2638.
  - **$1728** for **96** total claims over 20.
  - **$640** for **8** independent claims over 3 .
  - **$270** for multiple dependent claim surcharge.
- 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 $ 3478.**

A copy of this notice MUST be returned with the reply.

03/21/2001 AWONDAF1 00000033 09709785

01 FC:201 355.00 OP
02 FC:205 65.00 OP
03 FC:204 135.00 OP
04 FC:203 792.00 OP
05 FC:202 [illegible] OP

W Newton

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
James J. Fort, et al. :
Application No. 09/709,829 : ON PETITION
Filed: November 10, 2000 :
Attorney Docket No. 6488.US.02 :

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

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed September 6, 2005.

The 2-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.

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

This application is being referred to Technology Center AU 1654.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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DEC 0 9 2008

OFFICE OF PETITIONS

In re Patent No. 7,364,752 :
Fort et al. : LETTER REGARDING PATENT
Issued: April 29, 2008 : TERM ADJUSTMENT AND
Application No. 09/709,829 : NOTICE OF INTENT TO ISSUE
Filed: November 10, 2000 : CERTIFICATE OF CORRECTION
Attorney Docket No. 6488USO2 :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed May 22, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is **granted**. Patentee is given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,752, with a revised patent term adjustment of 688 days. On May 22, 2008, patentees submitted the instant comment.

Patentees state that they believe that the patent term adjustment of 688 days is incorrect and request reconsideration of the calculation of patent term adjustment.

The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 688 days is incorrect.

Patentees should have been assessed delay for the abandonment of the application pursuant to 37 CFR § 1.704(c)(3).

37 CFR § 1.704(c)(3) states:

> Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed[.]

In this instance, a final Office action was mailed on January 17, 2003, which set a three-month shortened statutory period for reply. Patentees did not file a timely and proper reply to the final Office action. Thus, the application became abandoned on April 18, 2003. On September 6, 2005, patentees filed a petition under 37 CFR § 1.137(b) to revive the application. A decision granting the petition to revive was mailed on February 10, 2006. Accordingly, the period of adjustment should be reduced by an additional 995 days, the number of days beginning on the date of abandonment, April 18, 2003, and ending on the lesser period of the date that is four months after the date the grantable petition to revive the application was filed, January 6, 2006. See 37 CFR § 1.704(c)(3)(ii). A period of reduction of 995 days will be entered.

Further, patentees should have been assessed delay for the submission of a reply having an omission pursuant 37 CFR § 1.704(c)(7).

37 CFR § 1.704(c)(7) states:

> Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

On April 3, 2006, patentees filed a non-compliant amendment. In response, the Office mailed a Notice of Non-Compliant Amendment (37 CFR § 1.121) on April 10, 2006. On September 1, 2006, patentees filed an amendment correcting the omission.

The submission of a non-compliant amendment is a proper basis for reduction of patent term under 37 CFR § 1.704(c)(7). Accordingly, the period of adjustment of the term of the patent should be reduced by 151 days (not 52 days), the number of days beginning on the day after the date the non-compliant amendment was filed, April 4, 2006, and ending on the date that the amendment correcting the omission was filed, September 1, 2006. Thus, the period of reduction of 52 days will be removed and a period of reduction of 151 days will be entered.

A review of the record also reveals that patentees should have been assessed a delay for filing a reply in excess of three months from the mail date of an Office action pursuant to 37 CFR § 1.704(b).

37 CFR § 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection,

> argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. 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.

In this instance, a final Office action was mailed on April 16, 2007. Patentees filed their response on October 12, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR § 1.704(b). Thus, patentees failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should be reduced by an additional 88 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, July 17, 2007, ending on the date the reply was filed, October 12, 2007. See 37 CFR § 1.704(b). Accordingly, a period of reduction of 88 days will be entered.

Lastly, patentees should have been assessed delay pursuant to 37 CFR § 1.704(c)(8) for the submission of a supplemental reply or other paper after a reply had been filed.

37 CFR § 1.704(c)(8) states:

> 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.

The record reveals that patentees filed an Information Disclosure Statement (IDS) on December 3, 2007, after filing of a reply to the final Office action on October 12, 2007. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS reveals that patentees did not include a statement under 37 CFR 1.704(d).[1] Therefore, the period of adjustment of the term of the patent should be reduced by an additional 52 days, the number of days beginning on the day after the date the initial reply was filed, October 13, 2007, and ending on the date that the IDS was filed, December 3, 2007. See 37 CFR § 1.704(c)(8). Accordingly, a period of reduction of 52 days will be entered.

In view thereof, the patent should have issued with a revised patent term adjustment of **zero (0) days** (875 days of Office delay - 1421 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office the $200.00 fee as set forth in 37 CFR 1.18(e) is unnecessary and will be refunded to the Deposit Account. The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero (0) days**.

---

[1] Pursuant to 37 CFR 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

PTA Calculations for Application: 09/709829			
Application Filing Date:	11/10/2000	PTO Delay (PTO):	875
Issue Date of Patent:	04/29/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	187
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-1234		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		52	
95	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		88	
94	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		151	
93	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	52		
92	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		995	
87.5	04/09/2008	PTA 36 MONTHS	812		
87	04/29/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
86	03/18/2008	EXPORT TO FINAL DATA CAPTURE			
85	03/17/2008	DISPATCH TO FDC			
84	03/17/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
83	03/17/2008	TC RETURN TO PUBS			
82	03/10/2008	ISSUE FEE PAYMENT VERIFIED			
81	03/10/2008	ISSUE FEE PAYMENT RECEIVED			
80	03/05/2008	FINISHED INITIAL DATA CAPTURE			
78	12/31/2007	EMAIL NOTIFICATION			
77	12/31/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
76	12/21/2007	EXPORT TO INITIAL DATA CAPTURE			
75	12/22/2007	ELECTRONIC REVIEW			
74	12/21/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
73	12/21/2007	EMAIL NOTIFICATION			
72	12/19/2007	MAIL NOTICE OF ALLOWANCE			
71	12/12/2007	ISSUE REVISION COMPLETED			
70	12/12/2007	DOCUMENT VERIFICATION			

69	12/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	12/08/2007	NOTICE OF ALLOWABILITY			
67	12/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	12/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	10/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	10/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	10/12/2007	REFERENCE CAPTURE ON IDS			
61	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	10/26/2007	DATE FORWARDED TO EXAMINER			
58	10/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	10/26/2007	DATE FORWARDED TO EXAMINER			
56	10/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	10/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	10/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	10/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	04/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	04/14/2007	FINAL REJECTION			
43	02/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42.7	02/19/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	40
42	02/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	03/01/2007	DATE FORWARDED TO EXAMINER			

40	02/19/2007	RESPONSE AFTER NON-FINAL ACTION		37	38
39	02/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	10/13/2006	MAIL NON-FINAL REJECTION			
37	10/10/2006	NON-FINAL REJECTION			
36	09/01/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	09/01/2006	REFERENCE CAPTURE ON IDS			
34.7	09/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	32
34	09/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	09/12/2006	DATE FORWARDED TO EXAMINER			
32	09/01/2006	RESPONSE AFTER NON-FINAL ACTION		52	30
31	09/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	04/11/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
29	04/10/2006	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
28	04/10/2006	DATE FORWARDED TO EXAMINER			
27	04/03/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
26	04/10/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	04/03/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
24	03/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	02/10/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
22	09/06/2005	PETITION ENTERED			
21	09/30/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	09/30/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
19	01/17/2003	MAIL FINAL REJECTION (PTOL - 326)	22		15
18	01/16/2003	FINAL REJECTION			
17	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
16	09/11/2002	DATE FORWARDED TO EXAMINER			
15	08/26/2002	RESPONSE AFTER NON-FINAL ACTION		98	12
		REQUEST FOR EXTENSION OF TIME - GRANTED			

14	08/26/2002				
12	02/20/2002	MAIL NON-FINAL REJECTION	41		-1
11	02/20/2002	NON-FINAL REJECTION			
10.7	11/10/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/10/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/20/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
8	05/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	04/27/2001	APPLICATION DISPATCHED FROM OIPE			
6	04/27/2001	APPLICATION IS NOW COMPLETE			
5	04/27/2001	CORRESPONDENCE ADDRESS CHANGE			
4	02/12/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	02/11/2001	CORRESPONDENCE ADDRESS CHANGE			
2	12/09/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/10/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,364,752 B1

DATED : Apr. 29, 2008

INVENTOR(S) : Fort 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 (688) days

Delete the phrase "by 688 days" and insert – by 0 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEO J. AUBEL
111 RIVERSHIRE LANE
LINCOLNSHIRE, IL 60069

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Patent No. **6,389,099** :
Issue Date: **May 14, 2002** :
Application No. **09/709,896** : ON PETITION
Filed: **November 13, 2000** :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(c), filed August 2, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 14, 2006 for failure to pay the $450 maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362 (e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20

DATE : March 8, 2007

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 6670323 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:

All amendments are approved EXCEPT The amendment to Claim 24 changing dependency from Claim 12 to Claim 70. Cl24 is drawn to a hemoglobin and not to a pharmaceutical composition. Thus Cl24 has no antecedent basis in Cl 70, and would depend from a subsequent Claim. Also, Double patenting issues may arise because Cl. 24 would be a substantial duplicate of Cl. 79. KCC 4-13-2007

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1656
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr

Paper 9

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GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Didomenico, et al : DECISION ON PETITION
Application No. 09/709,935 :
Filed: 13 November, 2000 :
Attorney Docket No. 23439-054-402 :

This is a decision on the petition under 37 C.F.R. §1.47(b),[1] filed 4 September, 2001, but not received into the Office of Petitions until this writing.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTE: 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventors.

Thereafter there will be no further reconsideration. Failure to respond will result in abandonment of the application.

---

[1] The regulations at 37 C.F.R. §1.47, in pertinent part:

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

* * *

(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 §17(l), and the last known address of all of the inventors. The Office shall, except in a continued prosecution application under §1.53(d) , forward notice of the filing of the application to all of the inventors at the addresses stated in the application and publish notice of the filing of the application in the *Official Gazette*. An inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

BACKGROUND

The record indicates:

- this application was filed on 13 November, 2000, without an executed oath or declaration by the named inventors John Didomenico (Mr. Didomenico), Craig S. Rendahl (Mr. Rendahl) and James H. Johnson (Mr. Johnson);

- accordingly, a Notice of Missing Parts was mailed on 2 March, 2001;

- in response to the Notice of Missing Parts, Petitioner filed on 4 September, 2001, and resubmitted via FAX on 7 December, 2001, *inter alia*, a request and fee for a four- (4-) month extension of time, the surcharge and the instant petition;

- contrary to the statement therein, the petition is supported by no documentation evidencing:

  --mailing of the entire application to Mr. Didomenico, Mr. Rendahl and Mr. Johnson Mr. Morales, or

  --the alleged assignment by them of instant application with recordation reel/frame and certificate under 37 C.F.R. §3.73; and

- the application is not signed by the authorized official of the assignee.

ANALYSIS

Petitioner has failed to establish its proprietary interest and that the inventors refuse to sign, cannot be found to sign the declaration (the proof of the pertinent events must be made by a statement of someone with first hand knowledge of the events) or cannot be reached.

A copy of the entire application papers must be sent to the last known address of the non-signing inventor(s) with a request that he/she sign the declaration for the patent application. 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(s) cannot be reached.

The submission must contain documentation evidencing that the entire application and the oath or declaration were sent to the inventors at his/her last know address. Such evidence should included a copy of the transmittal letter and a copy of the shipping waybill and the shipper's indication of delivery, refusal, or other non-delivery conditions.

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.)

Moreover, Petitioner's Counsel must set forth in his/her statement their attestation that he/she has inquired into the matter and believes all of the information submitted to be correct.

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

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

By mail: (Effective 1 May, 2003)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[2]

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

[2] 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
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JJGJR.: 12-03

Paper No: 12

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

COPY MAILED

DEC 17 2003

OFFICE OF PETITIONS

In re Application of
DiDomenico, et al.
Application No. 09/709,935
Filed: 13 November, 2000
Attorney Docket No. 23439-054-402

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. §1.47, filed on 24 November, 2003.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- this application was filed on 13 November, 2000, without an executed oath or declaration by the named inventors John DiDomenico (Mr. DiDomenico), Craig S. Rendahl (Mr. Rendahl) and James H. Johnson (Mr. Johnson);

- accordingly, a Notice of Missing Parts was mailed on 2 March, 2001;

- in response to the Notice of Missing Parts, Petitioner filed on 4 September, 2001, and resubmitted via FAX on 7 December, 2001, *inter alia*, a request and fee for a four- (4-) month extension of time, the surcharge and the instant petition;

- the original petition, filed on 4 September, 2001, was dismissed on 22 May, 2003, for failure to demonstrate the required (a) proprietary interest/irreparable harm and (b) showing that the non-signing inventor(s) had been sent the entire application at their last-know mailing address(es), which address(es) Petitioner had made a diligent effort to determine.

With the instant petition, Petitioner has shown proprietary interest/irreparable harm and that, while inventor Mr. Rendahl has signed the oath/declaration, the non-signing inventors **Mr. DiDomenico** and **Mr. Johnson** have 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 Bradford C. Blaise (Reg. No. 47,429) and that of Assignee's (Envirotest Systems Corporation (ESC)) employee Niranjan Vescio establish that the non-signing inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 2800 for further processing in due course.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6725267	2004-04-20	09/709,948	2000-11-10	Prediwave-8001.US01

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/brian r. coleman/	Date (YYYY-MM-DD)	2008-06-12
Name	Brian Coleman	Registration Number	39145

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES 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. 6725267
Issue Date: April 20,2004
Application No. 09709948
Filed: November 10,2000
Attorney Docket No. 10434-005-999

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

This is a decision on the electronic petition, filed June 12,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Kevin L Russell
601 SW Second Ave
Suite 1600
Portland OR 97204-3157

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JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of :
John E. Dolan, et al. :
Application No. 09/710,026 : ON PETITION
Filed: November 7, 2000 :
Attorney Docket No. KLR7146.098 :

This is a decision on the petition, filed July 2, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Since the provisions of 37 CFR 1.136 are no longer available, the $950 extension of time fee was not charged to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2622 for consideration of the amendment filed July 2, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 16

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of :
Chia-Tie Ho et al :
Application No. 09/710,036 : ON PETITION
Filed: November 10, 2000 :
Attorney Docket No. 53788USA1B.011 :

This is a decision on the petition to withdraw holding of abandonment filed, August 22, 2002 or, in the alternative, under 37 CFR 1.137(a) to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the application from issue.

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

The petition under 37 CFR 1.137(a) is **DISMISSED** as moot in view of the granting of the petition to withdraw holding of abandonment.

The petition under 37 CFR 1.313(c)(2) is also **DISMISSED** as moot for the reason set forth below.

The application was held abandoned for failure to timely pay the issue fee on or before November 14, 2001.

Petitioner asserts that the above-identified application went abandoned due to nonreceipt of the Notice of Allowance. The evidence submitted, as well as the file record of this case, discloses nonreceipt of the Notice of Allowance mailed August 14, 2001 due to the mailing thereof to an incorrect correspondence address by the Office.

It is the practice of the Office to restart the time period if a new Notice is required. However, in this instance, the Request for Continued Examination (RCE) will be used as the reply to continue examination. Therefore, the issue fee paid is unnecessary. Accordingly, petitioner may

request a refund of the $1280 issue fee, as well as the $15 advanced order fee, by writing to the Office of Finance Refund Section or, in the alternative, petitioner may request that the issue fee be applied towards the new Notice of Allowance. However, the request to apply the previously paid 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.

Telephone inquiries concerning this decision should be directed to Karen Creasy at (703) 305-8859.

The application file is being forwarded to Technology Center Art Unit 1711 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy for

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

JUL 18 2002

Paper No.7

Matthew J. Booth
BROWN/BOOTH
P.O. Box 50010
AUSTIN, TX 78763-0010

In re Application of:)
CAVANAUGH)
Application No. 09/710,057) **DECISION ON REQUEST FOR**
Filed: November 10, 2000) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS THAT)
SIMULATES THE EXECUTION OF
PARALLEL INSTRUCTIONS IN
PROCESSOR FUNCTIONAL
VERIFICATION TESTING

This is a decision on the Request To Withdraw from Representation filed July 12, 2002.

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

The request filed July 12, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: OBSIDIAN SOFTWARE INC.
609 Castle Ridge Rd.
Suite 210
Austin, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS
PATENT DEPARTMENT
98 SAN JACINTO BLVD
SUITE 1500
AUSTIN, TX 78701-4039

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Becky Cavanaugh et al :
Application No. 09/710,057 : ON PETITION
Filed: November 10, 2000 :
Attorney Docket No. 62061.0105 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 11, 2004.

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

This matter is being referred to Publishing Division.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,871,298	2005-03-22	09710057	2000-11-10	075963.0104

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	/Matthew Burr/	Date (YYYY-MM-DD)	2009-06-25
Name	Matthew Burr	Registration Number	37591

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6871298
Issue Date: March 22,2005
Application No. 09710057
Filed: November 10,2000
Attorney Docket No. 075963.0104

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

This is a decision on the electronic petition, filed June 25,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 25,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOLISCH HARTWELL DICKINSON MCCORMACK & HEUSER
SUITE 200
520 S W YAMHILL STREET
PORTLAND OR 97204

COPY MAILED

OCT 0 7 2009

OFFICE OF PETITIONS

In re Patent No. 6,825,921 :
Issue Date: November 30, 2004 :
Application No. 09/710,061 : ON PETITION
Filed: November 10, 2000 :
Attorney Docket No. LJL 348 :

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 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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

DARIN E. BARTHOLOMEW
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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AUG 1 4 2001

OFFICE OF PETITIONS

In re Application of :
Shawn Cornelius et al. :
Application No. 09/710,155 : ON PETITION
Filed: November 9, 2000 :
Attorney Docket No.10022/26 :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 11, 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (4) set forth above.

In regards to requirement (1), petitioner has not submitted sufficient evidence to show that diligent efforts have been made to reach the non-signing inventor, Matthew C. Klug. The showing of record, a single mailing to the last known address, is insufficient to prove that diligent efforts were made to reach the non-signing inventor. Petitioner should explain what attempts were made to reach the inventor through other means. If attempts to reach the inventor by other means (e.g. through e-mail, the telephone, telegram, etc.) continue to fail, then applicant will have

established that the inventor cannot be reached or contacted to execute the declaration. Details of the efforts made to reach or contact the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having firsthand knowledge of the details.

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (4), a statement of the inventor's last known address is missing and is required.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Special Program Law Office
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

DARIN E. BARTHOLOMEW
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

SEP 2 0 2001

OFFICE OF PETITIONS

In re Application of
Shawn Cornelius et al.
Application No. 09/710,155
Filed: November 9, 2000
For: ELECTRONIC SECURITY SYSTEM AND SCHEME FOR A COMMUNICATIONS NETWORK

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

Papers filed on August 24, 2001 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed August 14, 2001, included a Declaration signed by previously nonsigning inventor Matthew C. Klug in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Initial Patent Examination Unit for preexamination processing.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

JOHN C. FREEMAN, ESQ.
BRINKS HOFER GILSON& LIONE
NBC TOWER - 455 N. CITYFRONT PLAZA DRIVE
SUITE 3600
CHICAGO IL 60611

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Cornelius, et al. : LETTER REGARDING PTA
Application No. 09/710,155 :
Filed: November 9, 2000 :
Atty. Dkt. No.: 10022/26 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed March 9, 2007. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 553 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the PTA of 646 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(d) is incorrect, the Office having failed to reduce the adjustment 93 days in response to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 9, 2001.

A review of the application history reveals that at the time of allowance, an adjustment of 895 days could be attributed to the Office. The reduction was reduced a total of 249 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

Further, as indicated by applicants, the Office neglected to reduce the adjustment an additional 93 days in connection with the reply to the Notice submitted July 11, 2001. In accordance with 37 CFR 1.704(b), the reduction began April 10, 2001, the day after the date that is three months after the date that the Notice was mailed, and ended July 11, 2001, the date the response thereto was submitted.

In view thereof, at the time of allowance, the application was entitled to an overall PTA of 553 days.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to 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).

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas B. Haverstock
162 North Wolfe Road
Sunnyvale, CA 94086

Mail Date: 04/21/2010

Applicant	: Richard M. Onyon	: DECISION ON REQUEST FOR
Patent Number	: 7587446	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/710,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1248** 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 : 10/16/06

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/710172** No.: **6992172**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Approved

/NATHAN J. FLYNN/ SPE 2154

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. 22

JOSEPH SOFER
SOFER & HAROUN
342 MADISON AVENUE
SUITE 1921
NEW YORK, NY 10173

COPY MAILED

FEB 27 2002

OFFICE OF PETITIONS

In re Application of
Baker, Basoglu, Cutler, Gervasio,
Lee, Mundkur, Nojiri, O'Donnell
Poole, Raman, Rehm, Thekkath
Application No. 09/173,297
Filed: October 14, 1998
For: A Data Streamer

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a)[1], filed September 17, 2001, noting the joinder of the legal representative of the deceased inventor and rendering the instant Request for Reconsideration of Petition moot.

In view of the joinder of the legal representative of the deceased inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of 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 Publishing Division for processing into a patent.

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

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

[1]The Certificate of Mailing (37 C.F.R. 1.8a) certifies that "the attached Request for Reconsideration of Petition under 37 CFR 1.42 . . ." are being deposited. However, it is noted that 37 CFR 1.42 provides a method to proceed with the application when the inventor is dead, and does not require a petition.

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

Name of
ninth inventor: **David Poole** (deceased see Petition)
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
tenth inventor: **Ashok Raman**
Home Address: 1114 Savannah Drive, San Jose, CA 95117
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
eleventh inventor: **Eric Rehm**
Home Address: 353 Wallace Way NE #3, Bainbridge Island, WA 98110
Post Office Address: Same As Above
Citizenship: USA

Inventor's Signature: _____ Date: 2/8/2002

Name of
twelvth inventor: **Radhika Thekkath**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

PAGE 17/20 * RCVD AT 5/27/2005 11:43:05 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/24 * DNIS:2734160 * CSID:212 697 3004 * DURATION (mm-ss):04-26

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

SIGNATURES

Name of joint
first inventor: **David Baker**

Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
second inventor: **Christopher Basoglu**
Home Address: 21832 2nd Avenue W, Bothell, WA 98021
Post Office Address: Same as Above
Citizenship: USA

Inventor's Signature: _____ Date: July 6, 1999

Name of
third inventor: **Benjamin Cutler**
Home Address: 6206 50th Avenue NE, Seattle, WA 98115
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
fourth inventor: **Gregorio Gervasio**
Home Address: 1065 Greco Avenue, No. A-206, Sunnyvale, CA 94087
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

SIGNATURES

Name of joint first inventor: **David Baker**

Home Address: 102 Roper Lane, Chapel Hill, NC 27514
Post Office Address: Same as Above
Citizenship: US

Inventor's Signature: David C Baker Date: 8/23/99

Name of second inventor: **Christopher Basoglu**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of third inventor: **Benjamin Cutler**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of fourth inventor: **Gregorio Gervasio**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

Name of
ninth inventor: **David Poole**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
tenth inventor: **Ashok Raman**
Home Address: 1114 Savannah Drive, San Jose, CA 95117
Post Office Address: Same as Above
Citizenship: INDIA

Inventor's Signature: Raman Date: 7/19/99

Name of
eleventh inventor: **Eric Rehm**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
twelvth inventor: **Radhika Thekkath**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

Name of
fifth inventor: **Woobin Lee**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
sixth inventor: **Yatin Mundkur**
Home Address: 571 Bobolink Circle, Sunnyvale CA 94087
Post Office Address: same as above
Citizenship: INDIAN

Inventor's Signature: YG Mundkur. Date: 8/27/99

Name of
seventh inventor: **Toru Nojiri**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
eighth inventor: **John O'Donnell**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION

ATTORNEY DOCKET NO: 655-014

Name of
ninth inventor: **David Poole**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
tenth inventor: **Ashok Raman**
Home Address: 1114 Savannah Drive, San Jose, CA 95117
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
eleventh inventor: **Eric Rehm**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
twelvth inventor: **Radhika Thekkath**
Home Address: 919 Clara Drive, Palo Alto, CA 94303
Post Office Address: Same as Above
Citizenship: India

Inventor's Signature: _____ Date: 7/7/99

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION *ATTORNEY DOCKET NO: 655-014*

SIGNATURES

Name of joint
first inventor: **David Baker**

Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
second inventor: **Christopher Basoglu**
Home Address: 21832 2nd Avenue W, Bothell, WA 98021
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
third inventor: **Benjamin Cutler**
Home Address: 6206 50th Avenue NE, Seattle, WA 98115
Post Office Address: Same as Above
Citizenship: USA

Inventor's Signature: _____ Date: 7/6/99

Name of
fourth inventor: **Gregorio Gervasio**
Home Address: 1065 Greco Avenue, No. A-206, Sunnyvale, CA 94087
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
fifth inventor: **Woodin Lee**
Home Address: 1402 181st Place SW, Lynnwood, WA 98037
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
sixth inventor: **Yatin Mundkur**
Home Address: 571 Bobolink Circle, Sunnyvale CA 94087
Post Office Address: same as above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
seventh inventor: **Toru Nojiri**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
eighth inventor: **John O'Donnell**
Home Address: 1738 26th Avenue E, Seattle WA 98112
Post Office Address: Same as Above
Citizenship: USA

Inventor's Signature: _____ Date: 7/6/99

PAGE 6/20 * RCVD AT 5/27/2005 11:30:25 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/24 * DNIS:2734160 * CSID:212 697 3004 * DURATION (mm-ss):04-10

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION *ATTORNEY DOCKET NO: 655-014*

Name of
fifth inventor: ~~Woobin Lee~~ W.L. Woobin Lee
Home Address: 1402 181st Place SW, Lynnwood, WA 98037
Post Office Address: Same as Above
Citizenship: Republic of Korea

Inventor's Signature: Woobin Lee Date: 7-6-99

Name of
sixth inventor: **Yatin Mundkur**
Home Address: 571 Bobolink Circle, Sunnyvale CA 94087
Post Office Address: same as above
Citizenship: _____

Inventor's Signature: _____ Date: _____

Name of
seventh inventor: **Toru Nojiri**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
eighth inventor: **John O'Donnell**
Home Address: 1738 26th Avenue E, Seattle WA 98112
Post Office Address: Same as Above
Citizenship: _____

Inventor's Signature: _____ Date: _____

SIGNATURES

Name of joint
first inventor: **David Baker**

Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
second inventor: **Christopher Basoglu**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
third inventor: **Benjamin Cutler**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
fourth inventor: **Gregorio Gervasio**
Home Address: 1065 Greco Avenue, No. A-206, Sunnyvale, CA 94087
Post Office Address: Same as Above
Citizenship: PHILIPPINES

Inventor's Signature: [signature] Date: 08 JUL 1999

PAGE 12/20 * RCVD AT 5/27/2005 11:25:08 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/25 * DNIS:2734160 * CSID:212 697 3004 * DURATION (mm-ss):04-14

SOFER & HAROUN, L.L.P.
DECLARATION, POWER OF ATTORNEY & PETITION *ATTORNEY DOCKET NO: 655-014*

Name of
fifth inventor: **Woobin Lee**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
sixth inventor: **Yatin Mundkur**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

Name of
seventh inventor: **Toru Nojiri**
Home Address: 3-4-4 Nishi-Shinjuku, Shinjuku-ku, Tokyo
Post Office Address: "
Citizenship: JAPAN JAPAN

Inventor's Signature: Toru Nojiri Date: 7/1/99

Name of
eighth inventor: **John O'Donnell**
Home Address:
Post Office Address:
Citizenship:

Inventor's Signature: _____ Date: _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

JOHN L. ADAIR
GARY CARY WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN, TX 78746-6875

COPY MAILED

JAN 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Clay Davis et al	:	
Application No. 09/710,212	:	NOTICE
Filed: November 10, 2000	:	
Attorney Docket No. BMC1110-1	:	

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 2100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

JOHN L. ADAIR
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN, TX 78746-6875

COPY MAILED

JAN 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Walter R. Bodwell et al :
Application No. 09/710,214 :
Filed: November 10, 2000 :
Attorney Docket No. BMC1100-1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2100.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/06

Paper No.: ——

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/710238 Patent No.: 7201238 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: _____

SPE

2616
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061017

DATE : October 17, 2006

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 6,992,172

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:

KATHLEEN M. KERR, PH.D.
SUPERVISORY PATENT EXAMINER

SPE: Kathleen Kerr **Art Unit** 1656

10-19-06

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061017

DATE : October 17, 2006

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 6,992,172

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:

KATHLEEN M. KERR, PH.D.
SUPERVISORY PATENT EXAMINER

SPE: Kathleen Kerr **Art Unit** 1656

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)
6,993,502	2006-01-31	09/710,443	2000-11-10	14027-1183

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David P. Lindner/	Date (YYYY-MM-DD)	2010-06-07
Name	David P. Lindner	Registration Number	53222

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. 6993502
Issue Date: January 31,2006
Application No. 09710443
Filed: November 10,2000
Attorney Docket No. 4367-1

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

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

FEB 24 2004

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGDON AVENUE
BOSTON, MA 02199

In re Application of	:
Lutz Riechmann et al	:
Serial No.: 09/710,444	: PETITION DECISION
Filed: November 10, 2000	:
Attorney Docket No.: 8039-1090	:

This is in response to the petition under 37 CFR 1.181, filed September 29, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

A review of the file history shows that the examiner mailed a first Notice to comply with Sequence Rules on February 27, 2002, setting a one month extendable time period for compliance. Applicants submitted a first CRF sequence listing on July 30, 2002, including a four month extension of time. The listing was found to contain numerous compliance errors. Applicants were notified of the errors in a letter to comply mailed on October 23, 2002, setting a one month extendable time period for reply. Applicants replied on November 13, 2002, by mailing the new CRF disk to BOX NON FEE AMENDMENT rather than the Arlington. VA address suggested. This appears to have been an inadvertent error. As a consequence the disk was unreadable. A new letter requiring compliance was mailed to applicants on March 17, 2003, accompanied by the raw sequence listing error report. Applicants filed a new CRF disk on April 11, 2003. Upon review, this CRF disk also contained errors and was thus not in compliance with the Sequence Rules. As a consequence, the examiner mailed a Notice of Abandonment to applicants on September 22, 2003, accompanied by a copy of the raw sequence listing error report. The reason for abandonment was failure to comply with sequence rules. Applicants filed this petition on September 29, 2003, stating that all letters from the Office have been timely replied to and requesting withdrawal of abandonment. No new CRF was filed with the petition. Therefore the application is not in condition for examination as applicants have not complied with the sequence requirements of the Office. Therefore the holding of abandonment will not be withdrawn at this time. Applicants are, however, given one month from the date of mailing of this decision to file a fully compliant CRF. If a fully compliant CRF is timely filed the holding of abandonment will be withdrawn. NO EXTENSIONS OF TIME WILL BE PERMITTED.

The petition is **DISMISSED** until the above CRF condition is met..

The application will be retained in 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 703-272-0519 or by facsimile sent to the general Office facsimile number.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 6 2005

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

In re Application of	:
Lutz Riechmann et al	:
Serial No.: 09/710,444	: PETITION DECISION
Filed: November 10, 2000	:
Attorney Docket No.: 8039-1090	:

This is in response to the petition under 37 CFR 1.181, filed January 25, 2005, for withdrawal of abandonment of the above identified application based on non-receipt of a previous petition decision.

A review of the file history is set forth in the previous petition decision, mailed February 24, 2004, and is not repeated herein. That decision set a one month non-extendable time period for filing of an acceptable sequence listing in CRF. Failure to do so would result in the application remaining abandoned.

Applicants state that they never received the petition decision and provide copies of mail logs and docket records as evidence thereof. Applicants have, upon learning of the petition decision, filed a new CRF which has been accepted. In view of this 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 703-272-0519 or by facsimile sent to the general Office facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

COPY MAILED

APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Guang-Xue Wei :
Application No. 09/710,510 :
Filed: November 9, 2000 : DECISION ON PETITION
Title: FLUORESCENT POLYMERIC :
ARTICLES FABRICATED FROM U.V.
LIGHT ABSORBING POLYMER

This is a decision on the petition filed February 1, 2005, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 4, 2002, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 5, 2003. A Notice of Abandonment was mailed June 4, 2004.

On June 16, 2004, a response was received along with a terminal disclaimer, which contained a certificate of mailing dated February 21, 2003. It is noted that the response contained the incorrect serial number, 09/710,560. Petitioner concurrently submitted a petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, which was granted via the mailing of a decision from Technology Center 1700 on February 1, 2005.

Consequently, the petition under 37 CFR §1.137(b)[2] is **DISMISSED AS MOOT**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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

2 The petition fee has been credited to Petitioner's Deposit Account, as authorized in the petition.

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

December 9, 2003

Laurence P. Colton
Technoprop Colton
P. O. Box 567685
Atlanta, GA 31156-7685

In re application of:
Kenneth L. Martin DECISION ON PETITION
Serial No: 09/710,535
Filed: November 9, 2000
For: SHOWERHEAD

This is a decision on the petition received March 11, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Nonprovisional Application on May 1, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 3, 2001. The notice of abandonment was mailed on December 3, 2002.

On March 11, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts of Nonprovisional Application mailed on May 1, 2001.

The petition is hereby GRANTED.

A new Notice to File Missing Parts of Nonprovisional Application is enclosed with this decision setting forth a 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 (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

2 Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/710,535	11/09/2000	Kenneth L. Martin	22006.003US

CONFIRMATION NO. 5810

22870
TECHNOPROP COLTON, L.L.C.
P O BOX 567685
ATLANTA, GA 311567685

FORMALITIES LETTER

OC000000005729071

Date Mailed: 12/09/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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 $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**254** for a Small Entity

- Total additional claim fee(s) for this application is $ **189**
  - $**189** for **21** total claims over 20.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450

Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

OIPE JC47
MAR 11 2003
PATENT & TRADEMARK OFFICE

DAC $
C.C

PTO/SB/17 (1-03)
Approved for use through 04/30/2003. OMB 0651-0032
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

FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) **$130.00**

Complete if Known	
Application Number	09/710535
Filing Date	11-09-2000
First Named Inventor	MARTIN
Examiner Name	
Group Art Unit	3752
Attorney Docket No.	22006.003US

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☒ Credit card ☐ Money ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

Deposit Account Name

The Commissioner is authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additonal fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) **$0.00**

2. EXTRA CLAIM FEES FOR UTILITY AND

	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
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	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

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non - English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR § 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Statement	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) **$130.00**

RECEIVED
MAR 12 2003
OFFICE OF PETITIONS

SUBMITTED BY

Complete *(if applicable)*

Name	Laurence P. Colton	Registration No. (Attorney/Agent)	33,371	Telephon	770.522.9762
Signature				Date	4 March 2003

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

This collection of information is required by 37 CFR 1.17 and 1.27. 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, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/710,535	11/09/2000	Kenneth L. Martin	22006.003US

22870
TECHNOPROP COLTON, L.L.C.
P O BOX 567685
ATLANTA, GA 311567685

OIPE JC67
MAR 11 2003
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5810
ABANDONMENT/TERMINATION LETTER

OC000000009184114

Date Mailed: 12/03/2002

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/01/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

A copy of this notice MUST be returned with the reply.

Nathaniel R. Hawkins

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

RECEIVED
MAR 12 2003
OFFICE OF PETITIONS

PE JC67
MAR 11 2003
PAT & TRADEMARK OFFICE

Patent
Customer No.: 022870
Docket No.: 22006.003US

UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATIONS

Applicant:	Martin, Kenneth L.	Art Unit: n/a
Application No.:	09/710535	Examiner: n/a
Filing Date:	9 November 2000	
Title:	SHOWERHEAD	

PETITION UNDER 37 CFR 1.182 TO REINSTATE PATENT APPLICATION

RECEIVED
MAR 12 2003
OFFICE OF PETITIONS

Box Petition - Fee
Commissioner for Patents
Washington DC 20231

4 March 2003

Atlanta GA 31156-7685

Sir:

Applicant petitions the Commissioner under 37 CFR 1.182 (questions not specifically provided for) to (1) reinstate Applicant's above-identified patent application, (2) transmit to Applicant a copy of all papers issued by the United States Patent and Trademark Office (USPTO) in connection with the Applicant's patent application, and (3) grant Applicant a period (as defined by the laws and regulations) to respond to any outstanding papers. This Petition is accompanied by the petition fee of $130.00 under 37 CFR 1.17(h). However, as Applicant submits that the above-identified patent was abandoned because of an error made at the USPTO, Applicant requests a refund of this petition fee.

03/11/2003 SLUANG1 00000016 09710535
01 FC:1460 130. OP

I certify that I have deposited this document with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Commissioner for Patents, Box Petition - Fee, Washington DC 20231, this 4th day of March, 2003.

Laurence P. Colton

BACKGROUND

Applicants received a Notice of Abandonment dated 03 December 2002 from the Intial Patent Examination Division of the USPTO on the allegation that Applicant failed to timely and properly respond to a Notice to File Missing Parts allegedly mailed to Applicant on 01 May 2001. **Applicant did not receive the Notice to File Missing Part allegedly mailed on 01 May 2002.**

More particularly, leading up to the Notice of Abandonment, the events are as follows:

1. On 09 November 2002, Applicant filed Applicant's application titled SHOWERHEAD at the USPTO.

2. On 17 May 2001, the USPTO mailed an "Updated Filing Receipt" listing the wrong inventors. See Exhibit A.

3. On 24 August 2001, Applicant filed a Request for Corrected Filing Receipt to correct the error made by the USPTO. See Exhibit B

4. On 24 June 2002, after not receiving a response from the USPTO to Applicant's Request for a Corrected Filing Receipt for ten (10) months, Applicant filed a Status Inquiry at the USTPO to obtain the status of Applicant's patent application. See Exhibit C

5. On 15 July 2002, an examiner at the USPTO, following up on Applicant's Status Inquiry, notified Applicant's attorney of record by telephone that a First Action would be mailed to Applicant within a month. See Exhibit D (which is a copy of Applicant's attorney's note regarding the telephone call).

6. On 03 December 2002, the USPTO mailed Notice of Abandonment on the allegation that Applicant failed to timely and properly respond to Notice to File Missing parts allegedly mailed on 01 May 2001 (Applicant's attorney of record did not receive the Notice to File Missing Parts).

DISCUSSION

The USPTO improperly abandoned Applicant's patent application. The USPTO has the authority to abandon an application for the failure to respond to a notice, when an applicant has been given notice that a reply was required. 35 USC 133. As Applicant did not receive the Notice to File Missing Part allegedly mailed 01 May 2001 and as such notices are not public record, it was impossible for Applicant to respond to the Notice or for Applicant to have knowledge that such a notice was mailed. Further, Applicant's attorney of record diligently prosecuted this patent application, filing both a Request for a Corrected Filing Receipt and a Status Inquiry. For these reasons, *inter alia*, Applicant should be given an opportunity to respond to the Notice to File Missing Parts and to prosecute the above-identified patent application.

As can be seen from the enclosed papers, Applicant acted diligently in prosecuting this patent application. When the incorrect Filing Receipt was received, Applicant duly notified the USPTO and requested correction. When correction was not forthcoming in 10 months, Applicant duly filed a Status Inquiry. And the USPTO responded to the Status Inquiry by telephone, indicating that a first Office Action would be forthcoming within a month. However, the "Office Action" Applicant received was a Notice of Abandonment indicating that a Notice to file Missing Parts has been sent on 1 May 2001, which is entirely inconsistent with everything that had occurred to date.

Based on the incorrect inventors listed on the Filing Receipt, Applicant presumes that the Notice to File Missing Parts actually was sent to a different address, probably the address for the patent application filed by the incorrect inventors.

REQUESTED ACTION

Applicant petitions the Commissioner to:

1. Reinstate Applicant's above-identified patent application without prejudice;
2. Reissue and Retransmit to Applicant a copy of all papers issued by the USPTO in connection with the Applicant's patent application;

3. Correct the Inventorship and Filing Receipt in this patent application as requested by Applicant on 24 August 2001 and issue a corrected filing receipt with the proper information; and
4. Grant Applicant a period (as defined by the laws and regulations) to respond to any outstanding papers.

Further, as the need for this petition was due to the action of the USPTO, Applicant requests a refund of the $130.00 fee under 37 CFR 1.17(h).

CONCLUSION

This patent application was improperly abandoned by the USPTO and should be reinstated without charge and without prejudice to Applicant.

If the USPTO has any questions regarding these documents or this patent application, please contact the below-signed attorney of record.

Respectfully submitted,
TECHNOPROP COLTON LLC

Laurence P. Colton
Reg. No. 33,371

TECHNOPROP COLTON LLC
PO Box 567685
Atlanta GA 31156-7685

Tel: 770.522.9762
Fax: 770.522.9763
E-Mail: technoprop@technoprop.com

RECEIVED
MAR 1 2 2003
OFFICE OF PETITIONS

EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/710,535	11/09/2000	3752	420	22006.003US	2	20	2

CONFIRMATION NO. 5810

22870
TECHNOPROP COLTON, L.L.C.
P O BOX 567685
ATLANTA, GA 311567685

UPDATED FILING RECEIPT

OC000000006086541

Date Mailed: 05/17/2001

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

Applicant(s)

Yiwen Li, Kornhill, HONG KONG;
Wejjia William Lu, South Horizons, HONG KONG;
Man Chee Kenneth Cheung, Hong Kong Garden, HONG KONG;
Dip Kei Keith Luk, Scenic Villa, HONG KONG;
Chi Yan Keith Luk, Scenic Villa, HONG KONG;

RECEIVED
MAR 12 2003
OFFICE OF PETITIONS

Domestic Priority data as claimed by applicant

THIS APPLN CLAIMS BENEFIT OF 60/174,204 01/03/2000

Foreign Applications

If Required, Foreign Filing License Granted 02/02/2001

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Showerhead

Preliminary Class

239

Data entry by : DADE, JOAN **Team :** OIPE **Date:** 05/17/2001

RECEIVED
MAR 1 2 2003
OFFICE OF PETITIONS

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).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "**a**," "**an**" and "**the**" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "**new**," "**improved**," "**improvements in**" or "**relating to**" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

EXHIBIT B

OIPE JC67
MAR 11 2003
PATENT & TRADEMARK OFFICE

Patent
Customer No.: 022870
Docket No.: 22005.004US

UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATIONS

Applicant:	MARTIN, Kenneth L.	Art Unit:	3752
Application No.:	09/710535	Examiner:	Not Assigned
Filing Date:	09 November 2000		
Title:	SHOWERHEAD		

REQUEST FOR CORRECTED FILING RECEIPT

RECEIVED
MAR 12 2003
OFFICE OF PETITIONS

Assistant Commissioner For Patents
Office of Initial Patent Examination
Customer Service Center
Washington DC 20231

24 August 2001

Atlanta GA 31156-7685

Sir:

Please issue a corrected Filing Receipt for the above-identified patent application. The name, city of residence, and citizenship of the sole inventor Kenneth L. MARTIN is not listed on the Filling Receipt. The names presently listed on the Filing Receipt should be deleted because they are not inventors of the invention disclosed by the patent application. There is only ONE (1) inventor as described below. The correct inventor, city of residence, and citizenship is listed properly in the application papers as originally filed and is as follows:

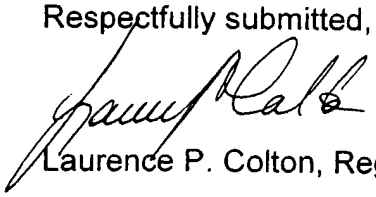
Inventor:	**City of Residence:**	**Citizenship:**
Kenneth L. MARTIN	Simpsonville, SC	US

I certify that I have deposited this document with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Assistant Commissioner for Patents, Office of Initial Patent Examination, Customer Service Center, Washington DC 20231, this 24th day of August, 2001.

Laurence P. Colton

The error was on the part of the USPTO and no fee is due.

Respectfully submitted,



Laurence P. Colton, Reg. No. 33,371

TECHNOPROP COLTON LLC
PO Box 567685
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Tel: 770.522.9762
Fax: 770.522.9763
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MAR 1 2 2003
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

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/710,535	11/09/2000	3752	420	22006.003US	2	20	2

22870
TECHNOPROP COLTON, L.L.C.
P O BOX 567685
ATLANTA, GA 311567685

CONFIRMATION NO. 5810
UPDATED FILING RECEIPT

OC000000006086541

Date Mailed: 05/17/2001

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

Applicant(s)

Yiwen Li, Kornhill, HONG KONG;
Wejjia William Lu, South Horizons, HONG KONG;
Man Chee Kenneth Cheung, Hong Kong Garden, HONG KONG;
Dip Kei Keith Luk, Scenic Villa, HONG KONG;
Chi Yan Keith Luk, Scenic Villa, HONG KONG;

Martin, Kenneth L., Simpsonville, SC

Domestic Priority data as claimed by applicant

THIS APPLN CLAIMS BENEFIT OF 60/174,204 01/03/2000

Foreign Applications

If Required, Foreign Filing License Granted 02/02/2001

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Showerhead

EXHIBIT C

JC67
MAR 11 2003
PATENT & TRADEMARK OFFICE

Patent
Customer No.: 022870
Docket No.: 22006.003US

UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATIONS

Applicant:	MARTIN, Kenneth L.	Art Unit:	3752
Application No.:	09/710535	Examiner:	Not Assigned
Filing Date:	09 November 2000		
Title:	Showerhead		

RECEIVED
MAR 1 2 2003
OFFICE OF PETITIONS

STATUS INQUIRY

Commissioner for Patents
Box OIPE
Washington DC 20231

24 June 2002

Atlanta GA 31156-7685

Sir:

More than 12 months have passed since the receipt of the Official Filing Receipt, dated 17 May 2001, for the above captioned patent application. No further communication has been received from the USPTO. Applicant would appreciate receiving an update on the status of the above captioned patent application.

If you have any questions, please contact the below signed attorney.

Respectfully submitted
TECHNOPROP COLTON LLC

Laurence P. Colton
Reg. No. 33,371

TECHNOPROP COLTON LLC
PO Box 567685
Atlanta GA 31156-7685

Tel: 770.522.9762
Fax: 770.522.9763
E-Mail: technoprop@technoprop.com

I certify that I have deposited this document with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Commissioner for Patents, Box OIPE - No Fee, Washington DC 20231, this 24th day of June, 2002.

Laurence P. Colton

EXHIBIT D

Larry Colton

Modified: Mon 07/15/2002 3:43 PM

USPTO Status Inquiry-
22006.003US Status - we'll be receiving a first action in one month.

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

December 9, 2003

Laurence P. Colton
Technoprop Colton
P. O. Box 567685
Atlanta, GA 31156-7685

In re application of:
Kenneth L. Martin DECISION ON PETITION
Serial No: 09/710,535
Filed: November 9, 2000
For: SHOWERHEAD

This is a decision on the petition received March 11, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Nonprovisional Application on May 1, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 3, 2001. The notice of abandonment was mailed on December 3, 2002.

On March 11, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts of Nonprovisional Application mailed on May 1, 2001.

The petition is hereby GRANTED.

A new Notice to File Missing Parts of Nonprovisional Application is enclosed with this decision setting forth a 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
(703) 308-3640.

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

2 Enclosures

UNITED STATES 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

APR 27 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Timothy J. Ziolkowski
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416

In re Application of: Vikram Singh et al.	:	PETITION TO REQUEST
Application No. 09/710,543	:	SUPERVISORY REVIEW
Filed: November 9, 2000	:	UNDER
Attorney Docket No.: GEMS8081.027	:	37 C.F.R. 1.144
For: METHOD OF DESIGNING AN ELECTRICAL TRANSACTION SYSTEM:	:	

This is in response to applicants' petition filed on December 16, 2003 to have the July 28, 2003 restriction requirement withdrawn.

The petition is **DENIED**.

Petitioner argues that in the July 28, 2003 restriction requirement the examiner has failed to show by way of example that the subcombinations of Groups I, II, III, and IV have separate utility from the disclosed combination. Further, petitioner argues that the examiner has failed to prove that there is a serious burden on the Office to examine all four groups of invention. Finally petitioner urges that the distinct classifications proposed by the examiner are improper and that the searches for the four groups of inventions would be the same.

A review of the July 28, 2003 restriction requirement indicates that the groupings advanced by the examiner are proper although the distinction between the groups of invention has not been clearly set forth. However, this has been expanded on below. Groups I, II, and III are distinct from the Group IV and accordingly from the overall disclosed combination in that they do not require the method step of considering the impact of the applicable regulations. Groups II, III, and IV are distinct from Group I and thus the disclosed combination in that they do not require the method step of reviewing direct sales screening processes. Groups I, III, and IV are distinct from Group II and thus the disclosed combination in that they do not require the method step of determining available products and services. Groups I, II, and IV are distinct from Group III and thus the disclosed combination in that they do not require the method step of proposing a global communications network site. As such each of the groups are not only distinct from the disclosed combination but are also distinct from each other.

Further, while the dependent claims of each grouping may claim all of these features at least claims 1, 11, 17, and 23 are evidence claims indicating that the petitioner has not relied on the details of the dependent claims for patentability and recognizes that each of the groups are in fact distinct inventions. This arrangement of the claims would present a serious burden for the examiner since each of the groups set forth would require a different approach and emphasis in the search and formulation of possible rejections. As for the classification of the four groups of invention, no error is seen with respect to the classification selected by the examiner.

Accordingly, the petition is denied. The amendment filed on December 16, 2003 will be forwarded to the examiner for action in turn.

Summary: ***Petition DENIED***

John J. Love, Director
Patent Technology Center 3600
(703) 308-1020

JJL:tpo: 02/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Norman R. Klivans
SKJERVEN MORRILL LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

JAN - 8 2003

In re Application of:	:	
Jong-Myoung Lee	:	
Application No. 09/710,606	:	DECISION ON REQUEST TO
Filed: November 10, 2000	:	WITHDRAW FROM RECORD
Attorney Docket No. AB-1060 US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 27, 2002.

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 the 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 Norman Klivans on behalf of all attorneys of record and there is at least thirty days remaining between the date of this decision and the expiration date of the maximum time period for response set by the Office action mailed on October 21, 2002. Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to John Castellano at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mr. John Castellano
Harness, Dickey & Pierce
12355 Sunrise Valley Drive, Suite 350
Reston, VA 20191

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

Vincent K. Yip
McCutchen Doyle Brown & Enersen LLP
Three Embarcadero Center
San Francisco CA 94111

COPY MAILED

FEB 15 2002

OFFICE OF PETITIONS

In re Application of
Bots, et al.
Application No. 09/710,691
Filed: November 9, 2000
Attorney Docket No. 21055-701

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 2001, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 24, 2001. A Notice of Abandonment was mailed on October 9, 2001.

It is noted that petitioner requested an extension of the time set for reply within the third month on August 10, 2001. Petitioner is advised, however, that the request was made outside the maximum allowable period set for reply. See 37 CFR 1.134. Therefore, the requested extension of time cannot be granted and petitioner will be refunded the $920.00 fee associated therewith, in due course.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Technology Center 2100 for review of the reply filed on January 22, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOOD, HERRON & EVANS LLP
2700 Carew Tower, 441 Vine Street
Cincinnati, Ohio 45202-2917

In re Application of)
John Josef Hench)
Application No. 09/710,703) DECISION ON REQUEST TO
Filed: November 10, 2002) WITHDRAW FROM RECORD
For: **METHOD AND APPARATUS FOR IMPAIRMENT DIAGNOSIS IN COMMUNICATION SYSTEMS**)

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on September 07, 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.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney filed by Assignee on November 30, 2004.

All future communications from the Office will be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

CC:

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGLES, CALIFORNIA 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Cecilia Galarza, et al. :
Application No. 09/710,718 : DECISION ON REQUEST TO
Filed: November 2000 : WITHDRAW AS ATTORNEY
For: METHOD AND APPARATUS FOR :
CHARACTERIZATION OF DISTURBERS IN :
COMMUNICATION SYSTEMS :

This is a decision on the Request to Withdraw as Attorney/Agent of record received September 03, 2004.

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

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney requesting withdraw is not of record.

All future communications from the Office will continue to be directed to the address listed above 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.

The file is being returned to TC 2600 central files to await action examination in appropriate turn.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

NOVOZYMES BIOTECH, INC.
1445 DREW AVE.
DAVIS, CA 95616

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Royer et al.
Application No. 09/710,760
Filed: November 10, 2000
Attorney Docket No. 5563.210-US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 12, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed October 21, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 22, 2003.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1450.00 extension of time fee submitted with the petition on May 12, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to Technology Center 1600 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

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Paper No. 12

FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Edwin D. Ebner :
Application No. 09/710,815 : ON PETITION
Filed: November 10, 2000 :
Attorney Docket No. 7754-P :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 2, 2003.

This application is being forwarded to the Office of Technology Center AU 3720.

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

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

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Alto Stemmer et al. :
Application No. 09/710,903 : ON PETITION
Filed: November 14, 2000 :
Attorney Docket No. P00,1737 :

This is a decision on the petition filed February 21, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before November 25, 2005 as was required by the Notice of Allowance mailed August 24, 2005. This application therefore became abandoned on November 28, 2005. Accordingly, a Notice of Abandonment was mailed January 24, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and the computerized docket system revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

The issue fee has been applied. This matter is being referred to the Publishing Divison to review the drawings submitted with the instant petition in response to the Notice Regarding Drawings mailed December 27, 2005 and for processing this application into a Patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Volel Emile
IBM Corporation
IPLD Internal Zip 4054
11400 Burnett Rd
Austin TX 78758

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Lentz :
Application No. 09/710,918 : DECISION ON PETITION
Filed: November 9, 2000 :
Attorney Docket No. AUS9-2000-0263-US1 :

This is a decision on the petition, filed June 6, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit corrected drawings within two months of the mail date of the August 16, 2006 Notice Regarding Drawings. No reply being received, the Office considered this application abandoned on October 17, 2006. A Notice of Abandonment was mailed on November 29, 2006.

Petitioner asserts that the Notice dated August 16, 2006 as 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 November 29, 2006 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Publication Division for **re-mailing** the Notice Regarding Drawings. The period for submitting corrected drawings will be reset to expire two (2) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LIBBY HANDELSMAN
IBM
11400 Burnet Road
Bldg., 905-8D002
Austin, TX 78758

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Lentz :
Application No. 09/710,918 : AMENDED ON PETITION
Filed: November 9, 2000 :
Attorney Docket No. AUS9-2000-0263-US1 :

This is a decision on the petition, filed June 6, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit corrected drawings within two months of the mail date of the August 16, 2006 Notice Regarding Drawings. No reply being received, the Office considered this application abandoned on October 17, 2006. A Notice of Abandonment was mailed on November 29, 2006.

Petitioner asserts that the Notice dated August 16, 2006 as 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 November 29, 2006 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Publication Division for **re-mailing** the Notice Regarding Drawings. The period for submitting corrected drawings will be reset to expire two (2) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MERCHANT & GOULD BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 09/710,955
Filed: November 14, 2000
Attorney Docket No.
60027.0403US01/BS00143

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed November 2, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed December 12, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on March 13, 2006. A Notice of Abandonment was mailed on October 19, 2006.

Petitioner asserts that the non-final Office Action mailed on December 12, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. Petitioner submitted a Power of Attorney, change of correspondence address and statement under 37 CFR 3.73(b) on July 26, 2004. A review of the record shows that a copy of the change of correspondence address was received but not entered. Thus, the non-final Office Action was improperly mailed.

This application is being forwarded to Art Unit 2166 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

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. 12

DREW M. WINTRINGHAM, ESQ.
CLIFFORD CHANCE ROGERS & WELLS LLP
200 PARK AVENUE
NEW YORK NY 10166-0153

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
DeLillo & McAndrew
Application No. 09/711,118
Filed: November 9, 2000
Attorney Docket No. 7227-270

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 25, 2002 (certificate of mailing date December 11, 2001), to change the order of inventorship.

The petition is GRANTED.

Pursuant to petitioners' authorization, deposit account no. 50-0521 will be charged the $130.00 petition fee.

Petitioners should note that it is not necessary to submit a newly execute declaration to change the order of inventors. To change the order of inventors, petitioner need only submit the $130.00 petition fee and specify the desired order of inventors.

The file is being forwarded to the Office of Initial Patent Examination for changing the order of inventors from:

1. Joseph McAndrew
2. Rocco A. De Lillo

to:

1. Rocco A. De Lillo
2. Joseph McAndrew

Telephone inquiries concerning this matter may 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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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAILED
FROM DIRECTORS OFFICE

JUL 21 2004

TECHNOLOGY CENTER 3600

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

In re application of:
Murali Ramaswami et al.
Application No. 09/711,124 : **DECISION ON REQUEST**
Filed: November 10, 2000 : **FOR WITHDRAWAL OF**
For: METHODS AND SYSTEMS FOR ANALYZING : **ATTORNEY**
AND PREDICTING MARKET WINNERS AND
LOSERS

This is a decision on the request filed on March 26, 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).

As to condition A), the attorney signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 7/13/04

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WASHINGTON, D.C. 20231
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Paper No. 5

HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Reno R. Rolle et al. :
Application No. 09/711,131 : DECISION GRANTING
Filed: November 14, 2000 :STATUS UNDER 37 CFR 1.47(a)
For: FOOD COOKING SYSTEM WITH :
ULTRASONIC ROTATIONAL BASKET :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 22, 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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

CHRISTOPHER GOGGIN
637 WILD DUNES CIRCLE
WILMINGTON, NC 28411

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NOV 15 2001

OFFICE OF PETITIONS

In re Application of
Reno R. Rolle; Christopher M. Goggin; Mark M. Laisure
Application No. 09/711,131
Filed: November 14, 2000
For: FOOD COOKING SYSTEM WITH ULTRASONIC ROTATIONAL BASKET

Dear Mr. Goggin:

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 the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Hale And Dorr LLP
The Willard Office Building
1455 Pennsylvania Avenue, NW
Washington, DC 20004

CKN

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PATENT & TRADEMARK OFFICE

Paper No. 5

HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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NOV 15 2001
OFFICE OF PETITIONS

In re Application of Reno R. Rolle et al. 112676.123
Application No. 09/711,131
Filed: November 14, 2000
For: FOOD COOKING SYSTEM WITH ULTRASONIC ROTATIONAL BASKET

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 22, 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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

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

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,617,121	:
Demayo et al.	: DECISION ON APPLICATION FOR
Application No. 09/711261	: PATENT TERM ADJUSTMENT -
Issue Date: 11/10/2009	: POST GRANT and
Filed: 11/10/2000	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 08011.3010-00000	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-five (1545) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-five (1545) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 11, 2003 and ends on January 26, 2005, the day before the RCE was filed, and is 443 (not 441) days. See, 35 U.S.C. 154(b)(1)(B)(i).

Further as to the "B" delay period, the period of overlap between the "B" period and Office delay pursuant to 37 CFR 1.702(a)(1) is calculated from November 11, 2003, and ends on the mail date of the Office action on January 22, 2004, and is 73 days (not 106 days).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The 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 **one thousand five hundred seventy-seven (1577)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,617,121 B1

DATED : **November 10, 2008**

INVENTOR(S) : DeMayo 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 1207 days.

Delete the phrase "by 1207 days" and insert – by 1577 days--

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)
6,661,879	2003-12-09	09/711,280	2000-11-10	49364-58987

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	/jlj/	Date (YYYY-MM-DD)	2008-03-04
Name	Joshua L. Jones	Registration Number	57044

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. 6661879
Issue Date: December 9,2003
Application No. 09711280
Filed: November 10,2000
Attorney Docket No. 939530.0012(XCC-101.1)

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

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

The petition is GRANTED.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 23

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

AUG 29 2003

OFFICE OF PETITIONS

In re Application of :
Ko et al. :
Application No. 09/711,324 :
Filed: November 13, 2000 :
Attorney Docket No.: :
3526.4US (97-1136.4) :

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 21, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision rendered on April 21, 2003. No court review of the Board's decision having been sought, the application became abandoned on June 22, 2003. A Notice of Abandonment was mailed on July 24, 2003.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, and filed a submission in the form of an Amendment. Accordingly, the petition is granted.

This application is being returned to Technology Center 1765 for processing of the RCE and IDS.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 18, 2008

TO SPE OF : ART UNIT 2623

SUBJECT : Request for Certificate of Correction for Appl. No. 09/711325 patent no. 7100194

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: _____

_____

_____

_____

_____

_____ 2623

SPE **Art Unit**

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

#13

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of
Vicki Vance
Serial No.: 09/711,334
Filed: November 9, 2000
Attorney Docket No.: AKK-100XCI

: PETITION DECISION

This letter is in response to the informal petition under 37 CFR 1.181, filed September 9, 2002, seeking withdrawal of abandonment based on non-receipt of an Office action.

A review of the file history shows that the Office mailed Sequence Compliance letter to applicant on January 30, 2002, setting a 30 day time period for reply. Upon failure to receive a reply the application became abandoned by Notice of Abandonment mailed to applicant's new attorney on September 24, 2002. On September 9, prior to the Notice of Abandonment being mailed, and in response to a telephone interview with applicant's previous attorney, applicant learned of the Sequence Compliance letter and filed the above request which is being treated as an informal petition. Applicant's previous attorney provides a statement of non-receipt and docket record evidence establishing non-receipt. It is concluded that applicant never received the Office action. In view thereof, the Abandonment is withdrawn as of the mailing date of this decision and the application restored to pending status.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for remailing of the last Office action.

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

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

FEB 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO CA 94111-4067

In re Application of :
Uri Polat et al :
Application No. 09/711,354 :
Filed: November 9, 2000 :
For: **METHODS AND SYSTEMS FOR IMPROVING A USER'S VISUAL PERCEPTION OVER A COMMUNICATIONS NETWORK** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on January 6, 2003.

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

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

All attorneys associated with Customer Number 23639 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: Neuro Vision, Inc.
P. O. Box 1888
Ramat Gan 52136
Israel

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)
6,621,827	2003-09-16	09/711,368	2000-11-10	XAN001-826959

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	/MGR/	Date (YYYY-MM-DD)	2007-11-29
Name	Martin G. Raskin	Registration Number	25642

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. 6621827
Issue Date: September 16,2003
Application No. 09711368
Filed: November 10,2000
Attorney Docket No. XAN001-826959

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

This is a decision on the electronic petition, filed November 29,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 29,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

FEB 27 2002

OFFICE OF PETITIONS

In re Application of	:	
Sandor Barns et al	:	
Application No. 09/711,379	:	NOTICE
Filed: November 9, 2000	:	
Attorney Docket No. 08305/047001	:	
98-19	:	

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 2819.

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. 11

Scott C. Harris
FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAR - 3 2003

In re Application of:	:	
Barns, *et al.*	:	
Application No. 09/711,379	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 09, 2000	:	
For: NONLINEAR FLASH ANALOG TO DIGITAL CONVERTER USED IN AN ACTIVE PIXEL SYSTEM	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 27, 2002.

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

The request meets all the above requirements. The request was signed by Scott C. Harris, an attorney of record in the above identified application. On December 17, 2002, the Office mailed a non-final Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through June 17, 2003. As such, there is at least thirty (30) days remaining between the date of this decision and the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Tom D'Amico, at the below-listed address until otherwise notified by applicant.

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

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

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

JUL 14 2003

Paper No. 5

David S. Bettinger
8030 Coventry
Grosse Ile, MI 48138

In re application	:	
David Bettinger	:	NOTICE OF WITHDRAWAL
Application No.: 09/711381	:	FROM ISSUE
Filed: November 14, 2000	:	UNDER 37 CFR 1.313
For: COMFORMABLE REFLECTIVE	:	
DISPLAY ELEMENT	:	

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 above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 20, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

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 Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner Georgia Epps at (703) 308-4883.

The above identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Howard Goldberg, Director
Technology Center 2800
Semiconductor, Electrical, and Optical
Systems, and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

DEC 17 2004

In re Application of:
JANNARD, JAMES H.
Application No. 09/711,433
Filed: November 13, 2000
Attorney Docket No.: OAKLY.929C2

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed November 17, 2003, requesting withdrawal of the holding of abandonment for the above-identified application.

The petition is **granted**.

The application was held abandoned for failure to respond to the Office action mailed March 27, 2002. A Notice of Abandonment was mailed November 12, 2002.

Petitioner asserts that on June 12, 2002, a response, including an amendment and a Certificate of Mailing with a date of deposit of June 12, 2002, was timely filed with the United States Patent and Trademark Office (PTO). To support this assertion, petitioner has submitted a copy of the response and a copy of an itemized postcard date stamped by the PTO on June 17, 2002.

A review of the application file record reveals that the original copy of the above-identified response is not of record in the application file and cannot be located. A copy of the response was received by facsimile on December 05, 2002. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The copy of the response bears a Certificate of Mailing showing a date of deposit of June 12, 2002. Accordingly, it is concluded that the response was timely received in the PTO, but lost after receipt thereof.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Janice A. Falcone, 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
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Paper No. 9

The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Central Hill Avenue
Cincinnati, OH 45224

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OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of :
T. Trinh et al. :
Application No. 09/711,447 : ON PETITION
Filed: November 13, 2000 :
Attorney Docket No. 5388RDD :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply in a timely manner to the non-final Office action mailed August 15, 2001, which set a shortened statutory reply period of three-months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 16, 2001.

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 1619 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

COPY MAILED

NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Toan Trinh et al	:	
Application No. 09/711,447	:	ON PETITION
Filed: November 13, 2000	:	
Attorney Docket No. 5388RDD	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 29, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 30, 2007.

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

This matter is being referred to Technology Center AU 1617 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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/26/2010

Applicant	: Toan Trinh	: DECISION ON REQUEST FOR
Patent Number	: 7645746	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/711,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2379** 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.

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)
7033381	2006-04-25	09711462	2000-11-13	

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	/Edward M. Weisz/	Date (YYYY-MM-DD)	2010-05-04
Name	Edward M. Weisz	Registration Number	37257

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. 7033381
Issue Date: April 25,2006
Application No. 09711462
Filed: November 13,2000
Attorney Docket No. 5089-2PUS/CIP

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

This is a decision on the electronic petition, filed May 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 8, 2006

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/711478 Patent No.: 7,115,316 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: _____

_____

_____

_____

_____

_____ 1745

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-1-07

TO SPE OF : Technology Center 2111 09/711552b

SUBJECT : Request for Certificate of Correction on Patent No.: 6732253 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:

Publication missed the title change in Examiner's Amendment - 1986

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
www.uspto.gov

OIPE
AUG 2 9 2003
PATENT & TRADEMARK OFFICE

Paper No. ____

KEATING & BENNETT LLP
10400 EASTON PLACE
SUITE 312
FAIRFAX, VA 22030

COPY MAILED

JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of
Toshifumi Oida et al
Application No. 09/711,571
Filed: November 13, 2000
Attorney Docket No. 36856.761

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed June 23, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 2125 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 RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/27/2005

TO SPE OF : ART UNIT 2600(2623)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,862,401

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

*** okay to enter item (56) changes in cofc request ?**

Ernest C. White, LIE305-8339
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:

_____

_____

_____

_____

_____

THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2621
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

MAILED

OCT 0 6 2003

Technology Center 2100

In re Application of: Srikrishna Talluri)
Application No. 09/711,791)
Filed: November 14, 2000)
For: METHOD AND SYSTEM FOR USING A COMMUNICATIONS NETWORK TO ACHIEVE AND RETRIEVE BIBLIOGRAPHY INFORMATION AND REFERENCE MATERIAL)

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed April 29, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §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(hi);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the

subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that 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***.

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

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)
6,666,677	2003-12-23	09/711,817	2000-11-13	06-08-3166

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	/R. Joseph Trojan/	Date (YYYY-MM-DD)	2008-04-02
Name	R. Joseph Trojan	Registration Number	34264

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. 6666677
Issue Date: December 23,2003
Application No. 09711817
Filed: November 13,2000
Attorney Docket No. A33737

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

This is a decision on the electronic petition, filed April 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE LAW OFFICE OF JILL L. WOODBURN
128 SHORE DR.
OGDEN DUNES, IN 46368-1015

COPY MAILED

DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Brit Kalatz :
Application No. 09/711,855 : ON PETITION
Filed: November 13, 2000 :
Attorney Docket No. RDID 0006 US :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 29, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 30, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $980 extension of time submitted with the petition on November 1, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application is being forwarded to Technology Center AU 1631 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 16 2008

In re Application of :
Amit J. Patel, et. al. :
Application No. 09/711,898 : DECISION ON PETITION
Filed: November 15, 2000 :
Attorney Docket No. 2651-102 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 23, 2007, requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue fee on or before April 4, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 4, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Patrick J. Finnan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Finnan desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Petitioner asserts that the Notice dated January 4, 2006 was not received. Petitioner also states that the correspondence address for this application was never changed and that the United States Patent and Trademark Office (USPTO) continued to mail correspondence to an incorrect address.

A review of the record shows that the application was filed on November 15, 2000 by Rothwell, Figg, Ernst & Manbeck (The Rothwell Firm). On November 11, 2002, A Change of Address/Power of Attorney was given to The Rothwell Firm. On January 23, 2003, the assignee filed a new of power of attorney to Customer Number 27896, namely the firm of Edell, Shapiro & Finnan, LLC. Thereafter, on April 23, 2003 another power of attorney was filed changing the correspondence address and giving power of attorney to the attorneys represented by Customer Number 6449, namely The Rothwell Firm. Accordingly, all correspondence from the USPTO was mailed to The Rothwell Firm.

Petitioner argues that during a telephone discussion between Andrew Floam, an attorney with Edell, Shapiro & Finnan and Examiner Dwin Craig it was pointed out that the USPTO needed to change its records to reflect that Edell, Shapiro & Finnan were the firm handling the application and that all correspondence should be mailed to the address of Edell, Shapiro & Finnan.

Petitioner is reminded that 37 CFR 1.2 states in part:

> 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.

On August 17, 2003, Andrew Floam was aware that the address of record was to The Rothwell Firm. Therefore, the responsibility was upon Andrew Floam or some other responsible person of Edell, Shapiro & Finnan, LLC to file a request to change the correspondence address of record.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within **two (2) months** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

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

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

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

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Patrick J. Finnan
Edell, Shapiro & Finnan, LLC
1901 Research Boulevard, Suite 400
Rockville, MD 20850

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDELL , SHAPIRO & FINNAN , LLC
1901 RESEARCH BOULEVARD , SUITE 400
ROCKVILLE, MD 20850

COPY MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Amit J. Patel, et al. :
Application No. 09/711,898 : DECISION ON PETITION
Filed: November 15, 2000 :
Attorney Docket No. 0918.0207C :

This is a decision on the renewed petition, filed October 23, 2008, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

A review of the record discloses that the application was held abandoned for failure to timely respond the Notice of Allowance and Fee(s) Due mailed January 4, 2006, which set a three (3) month shortened statutory period for reply.

On October 23, 2008, the present petition was filed wherein petitioner states that the Office action dated January 4, 2006 was not received, even though steps were repeatedly taken to ensure that the correct correspondence address was provided to the Office. While petitioner indicates that repeated requests to change the correspondence address were made, none were written until the filing of the request on September 26, 2008.

For the reasons detailed in the petition, the Office concedes that there was an irregularity in the mailing of the Office action. Accordingly, the petition is **GRANTED**.

The correspondence address has been changed to the address noted in the Power of Attorney filed September 26, 2008.

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

This application is being referred to the Technology Center technical support staff of Art Unit 2123 via the Office of Data Management for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of January 4, 2006 and (3) restarting the period for reply.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries regarding this application should be directed to the Office of Data Management.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Rozhon, et al.
Application No. 09/712,033
Filed: November 14, 2000
Atorney Docket No.: 7032-058
For: ENTERIC FORMULATIONS OF PROANTHOCYANIDIN POLYMER ANTIDIARRHEAL COMPOSITIONS

: ON PETITION

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 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)." This is not a final agency decision.

The application became abandoned June 19, 2001 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 18, 2001. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time under 37 C.F.R. § 1.136(a) were requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The present petition lacks requirement (1) stated above. Petitioner has failed to submit a complete reply to the Notice. Petitioner has submitted the required fees, but has failed to submit an oath or declaration executed by all of the inventors named in the application.

While it is noted that petitioner has submitted a declaration executed by an officer of assignee, petitioner is advised that an oath or declaration executed by each inventor is required under 37 C.F.R. § 1.63. If petitioner is of the belief that the inventors either cannot be reached or located or refuse to

execute the oath or declaration, petitioner is advised to submit a petition under 37 C.F.R. § 1.47 along with the required petition fee and relevant evidence.

Pursuant to 37 C.F.R. § 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Petitioner may request a refund of the previously submitted petition for an extension of time fee of $720.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Petitioner is advised that this application remains **ABANDONED**.

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

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

By facsimile: (703) 308-6916

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

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

Paper No. 8

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MAR 2 1 2003

OFFICE OF PETITIONS

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

In re Application of
Rozhon, et al.
Application No. 09/712,033
Filed: November 14, 2000
Atorney Docket No.: 11133-004-999
For: ENTERIC FORMULATIONS OF PROANTHOCYANIDIN POLYMER ANTIDIARRHEAL COMPOSITIONS

ON RENEWED PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), received March 17, 2003 (Certificate of Facsimile Transmission date of September 25, 2003), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 19, 2001 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 18, 2001. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time under 37 CFR 1.136(a) were requested. This decision precedes Notice of Abandonment. A petition under 37 CFR 1.137(b) was filed July 3, 2002 and dismissed September 12, 2002.

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

Telephone inquiries regarding the status of this application should be directed to OIPE at (703) 308-2733.

Telephone inquiries concerning the content of this 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

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FEB 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Rozhon et al.	:	
Application No. 09/712,033	:	ON APPLICATION
Filed: November 14, 2000	:	FOR
Atty Docket No. 13784.105005	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed November 16, 2007[1]. Applicants assert that the initial determination of patent term adjustment mailed November 7, 2007 omits the period of adjustment under Rule 703(b).

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 ordinarily 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).

Moreover, even where as here a request for continued examination (RCE) has been filed, it is appropriate to hold a decision in abeyance. The RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. Nonetheless, the calculation of the period of adjustment under Rule 703(b) occurs with knowledge of

[1] This application was timely filed with payment of the Issue Fee on November 16, 2007.

the actual date the patent is to be issued. Furthermore, this calculation is not reflected in the initial determination mailed with the notice of allowance, but rather is reflected in the revised patent term adjustment indicated in the patent. Accordingly, it is appropriate to render any decision on this issue after issuance of the patent and with respect to the revised patent term adjustment indicated in the patent.

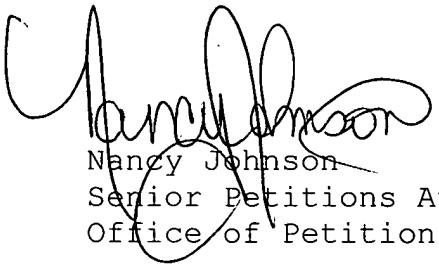
Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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 file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 13 2002

William L. Muckelroy Esq. P.C.
Ewing Professional Building
Suite 3A
1901 N Olden Avenue
Trenton NJ 08618

Paper No. 9

In re Application of	:	DECISION ON PETITION
Richard J. Thomas	:	TO WITHDRAW
Serial No. : 09/712,081	:	THE HOLDING OF
Filed : November 14, 2000	:	ABANDONMENT
For : Method for Creating a Denture Using Laser Altimetry	:	

This is a decision on petitioner's request filed July 30, 2002, to review the holding of abandonment mailed July 16, 2002 for failure file a response to the Office action mailed February 1, 2002. The basis for petitioner's request is the assertion that a timely amendment accompanied with a certificate of mailing, were mailed to the Office on February 7, 2002. There is no fee required for this petition.

A petition to withdraw the holding of abandonment wherein it is alleged that a proper response was filed requires: (a) a copy of the previously mailed response and/or fee verified to be a true copy of that which was filed; and (b) either evidence of the receipt of the response and/or fee by the Office, such as a post card receipt, or a verified declaration attesting on a personal knowledge basis to the previous timely mailing of the response and/or fee (37 CFR 1.8). This petition lacks item (b).

In the absence of any direct evidence to show that an amendment had been timely sent, such as a verified declaration signed by Ms. Irene Christine attesting on a personal knowledge basis to the previous timely mailing of the response in question, the petition must be dismissed.

Any requests for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Telephone inquiries relative to this petition should be directed to Special Programs Examiner Andres Kashnikow at (703) 308-1137.

Summary: Petition to withdraw holding of abandonment DISMISSED.

John E. Kittle, Director
Technology Center 3700
Phone: (703) 308-0873

ak/8/29/02

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

NOV 6 2002

William L. Muckelroy Esq. P.C.
Ewing Professional Building
Suite 3A
1901 N. Olden Avenue
Trenton NJ 08618

Paper No. 11

In re Application of	:	DECISION ON PETITION
Richard J. Thomas	:	TO WITHDRAW
Serial No. : 09/712,081	:	HOLDING OF
Filed : November 14, 2000	:	ABANDONMENT
For : Method for Creating a Denture Using Laser Altimetry	:	

This is a decision on petitioner's renewed request filed October 17, 2002, to review the holding of abandonment mailed July 16, 2002 for failure to file a response to the Office action mailed February 1, 2002. There is no fee required for this petition.

In a decision mailed September 13, 2002, petitioner was informed that the request filed July 30, 2002 to review the holding of abandonment lacked a verified declaration attesting on a personal knowledge basis to the previous timely mailing of a response on February 7, 2002. A verified declaration signed by Ms. Irene Christine attesting on a personal knowledge basis to the previous mailing of the response in question on February 7, 2002 has now been filed.

Accordingly, in view of the above, the Notice of Abandonment mailed July 16, 2002 is now deemed to be in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response mailed February 7, 2002.

Summary: Holding of Abandonment Withdrawn.

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

ak/11/04/02

UNITED STATES 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 2 8 2006

OFFICE OF PETITIONS

Grossman & Flight LLC
20 North Wacker Drive
Suite 4220
Chicago IL 60606

In re Application of
CARSON
Application No. 09/712,093
Filed: November 14, 2000
Attorney Docket No. 27600/G056A

DECISION
ON PETITION

This is a decision on a petition under 37 CFR 1.137(b), filed June 16, 2006 and resubmitted on August 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed March 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 16, 2006.

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

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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, applicant must submit a Statement under 37 CFR 3.73(b). The power of attorney filed on September 20, 2004 does not include this statement and was improperly accepted. Additionally while a courtesy copy is being sent to the below address, which varies slightly from the address of record, correspondence will continue to be sent to the above address of record until properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Office of Patent Publication.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: HANLEY, FLIGHT & ZIMMERMAN LLC
20 North Wacker Drive
Suite 4220
Chicago, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/31/09 **Paper No.:** _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/712,129 Patent No.: P25,984RE

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: The magnitude of improper corrections is extensive, e.g. Claim 132, line 64; Claim 87, line 39; lines 9 to 11; Claim 76, lines 61 to 62; Claim 1, lines 5 to 8 and 35; Column 106, lines 42, 43; Column 89, line 67; line 26, 27; Column 78, line 48; Column 73, line 6; Column 57, line 21 to 22; Column 56, line 46; Column 52, lines 25; Column 51, line 19; Column 51, lines 13 to 14; etc. (There are more)

_____ 1624

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: April 23, 2009
Patent No: RE 39198 E
Applicant: Strupczewski, et.al
Issued: July 18, 2006

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 Rules 1.322/1.323.

Respecting the alleged errors through the entire patent are printed in accordance with the record. The Examiner states "the magnitude of improper corrections is extensive. E.g. claim 132, line 64, claim 87, line 39; lines 9 to 11 claim 76, lines 61 to 62; claim1, lines 5 to 8 and 35; column 106 lines 42-43' column 57, line 21 to 22; column 56 line 46; column 52, lines 25; column 51, line 19; column 51 lines 13 to 14; ect…"

Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

In view of the foregoing, in this matter your request is hereby denied. A Certificate of Correction will issue for all other matters.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Requests for Reconsideration should be accompanied by additional support (e.g. copy of amendments, post card receipts. PTOL 1449 OR 892,etc.), containing requested data or changes) and /or brief statements of facts, as requested.

RoChaun Johnson for
Cecelia Newman, Supervisor
Decisions and Certificates of Correction
(703) 756-1572

PETER MLYNEK
SYNNESTVEDT & LECHNER LLP
1101 MARKET STREET, SUITE 2600
PHILADELPHIA, PA 19107-2950

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/28/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/712,129 No.: RE391198---

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
703 756-1572

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: As stated previously there are a large amount of improper corrections which would inturn create a greater need for corrections.

SPE

1624
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: October 26, 2009
Patent No: RE 39198 E
Applicant: Strupczewski, et.al
Issued: 07/18/2006

Request for Reconsideration of Certificate of Correction:

A reconsideration has been given for your request for a corrected patent for the above-identified patent under the provisions of Rules 1.322/1.323.

Again, respecting the alleged error through out the entire patent are printed in accordance with the record. The Examiner stated as previously, there are a large amount of improper corrections which would in turn create a greater need for corrections. Therefore, no correction(s) are in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

In view of the foregoing, in this matter your request is again hereby denied.

RoChaun Johnson for
Mary Diggs, Supervisor
Decisions and Certificates of Correction
(571) 272-0740

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

UNITED STATES 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.: 06-04

Paper No: 12

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JUN 18 2004
OFFICE OF PETITIONS

In re Application of
Suzuki, et al. :
Application No. 09/712,182 :
Filing Date: 15 November, 2000
Attorney Docket No. 46254 :

This is a decision on the petition filed on 24 May, 2004, under 37 C.F.R. §1.137(b), and alleging abandonment due to unintentional delay.

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

NOTE:

(1) The mailing address set forth on the petition is different from that of record. There is no indication that Petitioner herein ever Noticed the Office of a Change of Address as to the instant matter. If Petitioner desires to receive future correspondence at the new address, the appropriate Notice must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record reflects that:

- Petitioner failed to reply properly and timely to the final Office action mailed on 2 April, 2003, with reply due absent extension of time on or before 2 July, 2003;

- on 2 September, 2003, Petitioner filed a request and fee for a two month extension of time with a Request for Continued Examination (RCE), with fee, but failed to file the submission required under 37 C.F.R. §1.114, and thus the required reply was not timely and properly filed;
- the application went abandoned by operation of law after midnight 2 September, 2003;
- the Office mailed the Notice of Abandonment on 10 December, 2003;
- with the instant petition, fee and statement of unintentional delay, Petitioner filed the submission to complete the requirement of the RCE.

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as to Unintentional Delay

The requirements of a petition under 37 C.F.R. §1.137(b) are: petition, fee, reply, statement and–if applicable–terminal disclaimer.

Applicable here are only the petition, fee, reply and statement requirements, which Petitioner has satisfied.

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

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

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

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

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

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

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

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

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

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

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

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

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

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

CONCLUSION

Petitioner has satisfied the requirements under 37 C.F.R. §1.137(b), the petition hereby is **granted**.

The instant application is forwarded to Technology Center 1700 for further processing in due course.

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

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

cc:
PAUL E. WHITE, JR.
MANELLI DENISON & SELTER PLLC
2000 M STREET NW/STE. 700
WASHINGTON, DC 20036-3307

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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AUG 1 8 2006

OFFICE OF PETITIONS

In re Application of
Allen Louis Gorin et al.
Application No. 09/712,192
Filed: November 15, 2000
Attorney Docket No. AT&T 2000-0110

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 29, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed June 30, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned October 3, 2005. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

In response to the Final Office Action mailed June 30, 2005, petitioner has submitted a

---

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

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

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

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

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

Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2626 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Smith :
Application No. 09/712,302 : ON PETITION
Filed: November 14, 2000 :
Attorney Docket No. ARIBP059 :
For: METHOD AND APPARATUS TO PERFORM BUY VERSUS LEASING TRANSFORMATIONAL BIDDING

This is a decision on the petition, filed June 14, 2007 (certificate of mailing date June 8, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 26, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on December 27, 2006. A Notice of Abandonment was mailed on April 10, 2007.

Applicant has submitted an amendment in reply to the September 26, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 26, 2006 non-final Office action, and the $1,500.00 petition fee.

Regarding the statement of delay: The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3691 for consideration of the amendment filed on June 14, 2007 (certificate of mailing date June 8, 2007).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

KEVIN M. MASON, ESQ.
RYAN, MASON & LEWIS, LLP
1300 POST ROAD, SUITE 205
FAIRFIELD, CT 06430

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AUG 1 5 2001

OFFICE OF PETITIONS

In re Application of
Lenchner
Application No. 09/712,380
Filed: November 13, 2000
Attorney Docket No. YOR920000621US1

DECISION GRANTING
PETITION

This is a decision on the petition, filed on May 14, 2001, requesting that the above-identified application be accorded a filing date of November 13, 2000, rather than the presently accorded filing date of November 14, 2000.

The petition is **GRANTED.**

Petitioner requests an earlier filing date of November 13, 2000 on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail" service pursuant to the requirements of 37 CFR 1.10. In support, the petition is accompanied by a copy of the "Express Mail" mailing label, Number EL659922010US.

This mailing label contains a "date-in" box indicating a November 13, 2000 date. In addition, the originally filed application also bears the number EL659922010US on the transmittal and a certificate of deposit that the application was being deposited with the USPS "Express Mail Post Office to Addressee" service on November 13, 2000.[1] The petition is thus granted. A corrected filing receipt is attached.

No petition fee is required. Thus, the $130.00 petition fee will be refunded to Deposit Account No. 50-0510.

The application is being returned to Technology Center 2100 for examination in due course with a filing date of November 13, 2000.

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[1] See 37 CFR 1.10(a) and 1.6(a)(2).
(Any correspondence received by the Office that was delivered by the "Express Mail Post Office to Addressee" service of the USPS will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.)

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

Attachment: Corrected filing receipt (indicating 11/13/00 filing date)

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

NOV 14 2002

Mailed: Paper Number 15

Inventors: Kiik et al.

Serial No. 09/ 712,399 :DECISION ON

Filed: November 14, 2000 :PETITION

For: HEAT REFLECTIVE COATED STRUCTURAL ARTICLE

This is a decision on the petition, filed April 15, 2002, to correct inventorship under 37 C.F.R 1.48(a) by adding Younger Ahluwalia.

In view of the fact that all of the conditions have been met for adding an inventor under 37 C.F.R. 1.48(a), the petition is granted.

The petition is **GRANTED**.

Paul J. Thibodeau
Supervisory Patent Examiner
Art Unit 1773
Technology Center 1700
Chemical Materials & Engineering

Kimberly J. McGraw
Baker, Botts, L.L.P.
30 Rockefeller Plaza
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Paper No. 5

JOSHUA D. ISENBERG
204 CASTRO LANE
FREMONT CA 94539

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AUG 1 3 2001

OFFICE OF PETITIONS

In re Application of :
Michael J. Daneman et al :
Application No. 09/712,420 : ON PETITION
Filed: November 13, 2000 :
Attorney Docket No. ONX-109 :

This is a decision on the petition filed April 17, 2001, under 37 CFR 1.182, to disregard the declaration filed concurrently with the application and requesting that the Declaration pursuant to 37 CFR 1.63 filed concurrently with the instant petition be treated as an original Declaration submitted subsequent to the filing date accorded to this application.

The petition **granted**.

The application papers deposited on November 13, 2000, included a specification, a preliminary amendment, and a Declaration pursuant to 37 CFR 1.63. The aforementioned Declaration, however, failed to specifically execute the aforementioned preliminary amendment as required by 37 CFR 1.63(b)(1) and, as such, cannot be considered as part of the original disclosure.

The remedy to have the preliminary amendment to be considered as part of the original disclosure to overcome any forthcoming holding of new matter arising from the lack of execution of the preliminary amendment present on the filing date is by way of a petition under 37 CFR 1.182 to have the USPTO consider the application as having been filed without an original declaration, and for applicant to supply a supplemental declaration that executes both the application papers and the amendment filed on the same date by specifically referring to the amendment by its filing date, and any necessary surcharge. See MPEP 608.04(b). Since applicant has satisfied all the requirements, the petition is granted.

The file is being returned to Technology Center AU 1746 for examination in due course.

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

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

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Paper No. 9

BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

MAIL

APR 27 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Judson, et al.
Application No.: 09/712,658
Filed: November 14, 2000
For: SYSTEM, METHOD, AND APPARATUS FOR ORIENTING IMAGES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed January 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 does not include signatures of each of the listed attorneys seeking to withdraw or a clear indication that Mr. John G. Flaim is signing on behalf of the others.

Accordingly, the request is **GRANTED** only for John G. Flaim.

Since the Office does not recognize law firms, and the request is otherwise only in the name of John G. Flaim, it does not cover all the attorneys currently of record. Therefore, all other attorneys/agents remain of record.

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. 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.

The application file is being returned to the examiner for appropriate action as required.

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

cc: Donald F. King
Odin, Feldman & Pittleman
9302 Lee Highway, Suite 1100
Fairfax, VA 22031

UNITED STATES PATENT AND TRADEMARK OFFICE

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BETHESDA, MD 20814

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Ross Judson et al :
Application No. 09/712,658 : DECISION GRANTING PETITION
Filed: November 14, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 24142399.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 19, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that petitioner herein was the attorney of record at the time the application became abandoned. Therefore, it is not apparent whether petitioner was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Chia-Yu Fu et al :
Application No. 09/712,749 : ON PETITION
Filed: January 14, 2000 :
Attorney Docket No. CT00-020 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2003, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 17, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 18, 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 lack(s) item(s) (1) and (2).

As to item (1), A petition to revive cannot be granted where there is an outstanding requirement(s). In the instant case, there was no response to the January 17, 2003 Office action. The reply must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the petition to revive cannot be granted until the response to the January 17, 2003 Office action is received.

As to item (2), petitioner has given the Office authorization to charge any fees, which may be required in the petition on October 16, 2003. Office finance records show the person signing the petition (Douglas W. Gilmore) is not on the authorization to charge for this deposit account; therefore, the Office is unable to charge the $1330 petition fee.

There is no indication that the person signing the instant petition (Douglas W. Gilmore) was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Douglas W. Gilmore
Motorola, Inc.
1303 E. Algonquin Road
Schaumburg, IL 60196

cc: Motorola, Inc.
Corporate Law Department - #56-238
3102 North 56th Street
Phoenix, AZ 85018

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LAW DEPARTMENT
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AUSTIN, TX 78729

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
Chia-Yu Fu et al :
Application No. 09/712,749 : ON PETITION
Filed: November 14, 2000 :
Attorney Docket No. CT00-020 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 3729 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6378857
Issue Date: April 30,2002
Application No. 09712762
Filed: November 13,2000
Attorney Docket No. 5992-56729

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

This is a decision on the electronic petition, filed April 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,378,857	2002-04-30	09/712,762	2000-11-13	N/A

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rudolf o. siegesmund/	Date (YYYY-MM-DD)	2008-04-29
Name	Rudolf O. Siegesmund	Registration Number	37720

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Rice et al. :
Application No. 09/712,878 : ON PETITION
Filed: November 14, 2000 :
Attorney Docket No. 3123-362 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 13, 2003.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6435203
Issue Date: August 20,2002
Application No. 09712956
Filed: November 16,2000
Attorney Docket No. Q61791

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

This is a decision on the electronic petition, filed April 19,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6435203	2002-08-20	09712956	2000-11-16	Q61791

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	/DJCushing/	Date (YYYY-MM-DD)	2007-04-19
Name	David J. Cushing	Registration Number	28703

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

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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.

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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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WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Akitaka Nakayama et al :
Application No. 09/713,036 : ON PETITION
Filed: November 16, 2000 :
Attorney Docket No. 001533 :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 1765 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

NOV 27 2006

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Alexandria, VA 22313-1450
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CAROL KOEHLER, WENDY LEE
GENENTECH
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080-4990

In re Application of	:
Leonard Presta	:
Serial No.: 09/713,425	: PETITION DECISION
Filed: November 15, 2000	:
Attorney Docket No.: P1726R1P1	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 30, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of :

FRASER, STUART A. et al. :
Application No. 09/713,529 : DECISION ON PETITION
Filed: November 15, 2000 : TO WITHDRAW
Attorney Docket No. **9023.00** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **STUART A. FRASER**
18 MAPLE WAY
ARMONK, NY 10504

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

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JUN 11 2003

OFFICE OF PETITIONS

In re Application of :
George Mamo, et al. :
Application No. 09/713,598 : ON PETITION
Filed: November 15, 2000 :
Attorney Docket No. P-9580.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 8, 2002, 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 August 9, 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 3700, Art Unit 3738 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

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United States Patent and Trademark Office
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of :
George Mamo, et al. :
Application No. 09/713,598 : ON PETITION
Filed: November 15, 2000 :
Attorney Docket No. P-9580.00 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance/Notice of Allowability mailed April 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2004.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6612845
Issue Date: September 2,2003
Application No. 09713727
Filed: November 15,2000
Attorney Docket No. 3298-001917

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

This is a decision on the electronic petition, filed November 29,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 29,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6612845	2003-09-02	09713727	2000-11-15	3298-001917

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	/christian e schuster/	Date (YYYY-MM-DD)	2007-11-29
Name	Christian E. Schuster	Registration Number	43908

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DAVID A. HALL
HELLER EHRMAN .
4350 LA JOLLA VILLAGE DRIVE #700
SAN DIEGO, CA 92122

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Peter R. Berg et al :
Application No. 09/713,843 : DECISION ON
Filed: November 15, 2000 : PETITION
Attorney Docket No. 37337-0001 : TO WITHDRAW
: FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 5, 2005.

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

A review of the file record indicates that the power of attorney appearing in the oath filed November 15, 2000, to Mr. David A. Hall, along with all of the other attorneys associated with the law firm of Heller Ehrman White and McAuliffe, has been revoked by the assignee of the patent application in a communication mailed March 8, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by the applicants.

It is noted that the power of attorney submitted on August 25, 2005 was improperly accepted by the Office on March 8, 2006. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

This application is being referred to Technology Center AU 2173 to await a reply to the Office action mailed February 24, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: FERNANDEZ & ASSOCIATES
1047 EL CAMINO REAL
SUITE 201
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BRADLEY P. WILLIAMS
BAKER BOTTS, L.L.P.
SUITE 800
2001 ROSS AVENUE
DALLAS TX 75201-2980

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter R. Berg et al	:	
Application No. 09/713,843	:	DECISION GRANTING PETITION
Filed: November 15, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HIVE - P001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of February 24, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2173.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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RUSSO & DUCKWORTH , LLP
9090 IRVINE CENTER DRIVE , SECOND FLOOR
IRVINE, CA 92618

Mail Date: 04/21/2010

Applicant	: David R. Scott	: DECISION ON REQUEST FOR
Patent Number	: 7587325	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/713,965	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1096** 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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PHILIP S. JOHNSON
ONE JOHNSON AND JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAY 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Frank Butaric, et al. :
Application No. 09/714,093 : ON PETITION
Filed: November 16, 2000 :
Attorney Docket No. CRD-834 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed August 17, 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 s to timely pay the issue and publication fees on or before July 10, 2007 as required by the Notice of Allowance and Fee(s) Due mailed April 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 11, 2007. The Notice of Abandonment was mailed August 7, 2007.

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

The required reply was not filed with instant petition. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue. The filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to the pay the issue fee or any portion thereof.

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 Terri Williams at (571) 272-2991.

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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PHILIP S. JOHNSON
ONE JOHNSON AND JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank Butaric, et al.	:	
Application No. 09/714,093	:	ON PETITION
Filed: November 16, 2000	:	
Attorney Docket No. CRD-834	:	

This is a decision on the renewed petitions, filed May 19, 2008, under 37 CFR 1.137(b) to revive the above-identified application, and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petitions are **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 11, 2007. The Notice of Abandonment was mailed August 7, 2007.

The petition under 37 CFR 1.137(b) satisfies the conditions for revival in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Furthermore, 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 19, 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 concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3738 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Chris Bottorff
Petitions Examiner
Office of Petitions

---

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

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Paper No. 11

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Kouichi Ichimura et al :
Application No. 09/714,193 : DECISION GRANTING PETITION
Filed: November 17, 2000 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 199858US2SRD :

This is a decision on the petition, filed September 30, 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 9, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2882 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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Govind Malalur	: DECISION ON REQUEST FOR
Patent Number	: 7593953	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/714,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1326** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Thomas C Webster
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025-1026

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AUG 14 2005

OFFICE OF PETITIONS

In re Application of
Matias Duarte
Application No. 09/714,320
Filed: November 15, 2000
Attorney Docket Number: 04676.P004X
Title: ADJUSTABLE DATA PROCESSING DISPLAY

DECISION DISMISSING
PETITION UNDER 37 C.F.R. §1.137(b)
AS MOOT

This is a decision on the petition filed June 27, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A non-final Office action was mailed on April 6, 2005, which set a shortened statutory period for reply of three (3) months and withdrew the finality of a final rejection which had been mailed on February 24, 2004.

This petition was filed along with an amendment, and both were received prior to the expiration of the three-month period set by the non-final Office action of April 6, 2005.

As such, the present petition under 37 C.F.R. §1.137(b) is hereby **DISMISSED AS MOOT**, as the instant application is not abandoned.

The petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The 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

MAY - 8 2007

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Ari ayalon et al	:	
Serial No.: 09/714,351	:	DECISION ON PETITION
Filed: November 16, 2000	:	
Attorney Docket No.: 1662/50302	:	

This letter is in response to the Petition under 37 C.F.R. 1.181, filed March 5, 2007, to require the examiner to withdraw an objection to the claims.

BACKGROUND

A review of the recent file history of this application shows that the examiner mailed a non-Final Office action to applicants on May 4, 2006, objecting to claims 1, 3-6 and 16-17 as being substantial duplicates of claim 2. The examiner also rejected the same claims under 35 U.S.C. 112, second paragraph, for the same reason. Claims 16 was further rejected under 35 U.S.C. 112, first paragraph, as lacking enablement, and under 35 U.S.C. 102(b) as anticipated by Briggs et al or McKenzie et al. Claim 2 was indicated allowable.

Applicants replied on October 4, 2006, addressing the rejections and objections appropriately and making minor amendments to claims 3 and 17.

The examiner mailed a Final Office action to applicants on December 29, 2006, maintaining the objection to claims 1, 3-6 and 16-17 as substantial duplicates, as well as the rejection of the same claims under 35 U.S.C. 112, second paragraph for the same reason. Claim 2 was indicated allowable. No art rejections were made.

Applicants filed this petition on March 6, 2007, requesting the Office to require the examiner to withdraw the objection to the claims set forth above.

DISCUSSION

Applicants complain that the examiner is improperly denying applicants the right to claim their invention in alternative manners and that such is permitted in view of various court decisions, such as In re Chandler, 138 USPQ 138 and others.

Inasmuch as the objection to the claims as being substantial duplicates of each other is also the subject of a rejection under 35 U.S.C. 112, second paragraph, the objection cannot be separated from the rejection which must be appealed to the Board of Patent Appeals and Interferences.

DECISION

The petition is **DISMISSED** as moot in that it is not directed to a petitionable matter.

Applicant remains under obligation to file an appropriate reply to the Final Office action within the time period set therein, or as extended under 37 CFR 1.136(a).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date thereof in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

Christopher Low
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/06

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6518524

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:

_____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/06

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6518524

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

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

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

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

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

Comments:

All changes are approved. Thanks

LISA Klaus 12/21/07

SPE
LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

2832
Art Unit

PTOL-306 (REV. 7/03)

PAGE 1/1 * RCVD AT 12/21/2007 2:02:39 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/4 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-38

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of
Pervan
Application No. 09/714,514
Filed: February 3, 2003
Attorney Docket No. 003300-700
For: LOCKING SYSTEM AND FLOORING BOARD

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed December 18, 2006, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned due to applicant's alleged failure to reply within an extendable three month period of the mailing of the June 1, 2006 non-final Office action.T he Office contended that this application became abandoned on September 2, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioner asserts that a reply was timely received in the Office on September 8, 2006. In support of this assertion, petitioner has provided a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing September 8, 2006 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included authorization to charge petitioner's deposit account, an amendment, five terminal disclaimers, and a petition for a one month extension of time.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on September 8, 2006. MPEP 503. Petitioner has provided a copy of the September 8, 2006 correspondence. It is noted that petitioner's credit card was charged five terminal disclaimer fees and a one month extension of time fee on accounting date September 12, 2006. The mailroom date was September 8, 2006. Accordingly, the petition to withdraw the holding of abandonment is granted.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3637 for consideration of the amendment filed on September 8, 2006 and resubmitted with the present petition on December 18, 2006.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

09/714,602 Applicant's Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA GA 30361

In re Application of:
David William Holden
Serial No.: 09/714,602
Filed: November 16, 2000
Attorney Docket No.: RPMS 101 CON 3

DECISION ON PETITION

This is in response to applicant's petition under 37 CFR § 1.181 sent by facsimile transmission on March 10, 2004, requesting review of the Examiner's assertions for denying applicant's right of priority to parent applications 09/201,945 and 08/637,759.

BACKROUND

Applicant filed this application which is a continuation application of 09/201,945 and 08/637,759. The examiner issued a first Office action on November 17, 2003 rejecting the instant claims under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The examiner additionally denied priority of the instant application to the parent applications recited above because the conditions of 35 USC 120 have not been satisfied.

DISCUSSION

Applicant states that this application is a continuation of 09/201,945 and 08/637,759 and that the specification of the priority applications is identical to the specification of the present application. Applicant further states that while the examiner can question the enablement of the specification of the claims on appeal, he cannot deny priority since the specifications are identical.

A review of the application establishes that there is no disclosure in the 09/201,945 or 08/637,759 applications of the broadly claimed methods recited in the pending claims. The earlier applications were specifically limited to methods of identifying genes where the methods comprise insertional inactivation of genes within the genome of a target microorganism (e.g. a pathogen) with transposon elements (or "transposon-like" elements) comprising a unique nucleic acid tag sequence. The instant claims recite methods that are not reliant upon insertional inactivation of genes by a transposon or "transposon-like" element, nor do they necessarily depend upon a comparison of the unique tag sequences isolated from surviving microorganism to those initially introduced into the particular environment (e.g.

claims 57 and 86). Therefore, the pending claims encompass embodiments that are not encompassed by the earlier applications. Accordingly, applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120 since the instant application must be an application for a patent for an invention which is also disclosed in the prior application; the disclosure of the invention in the parent application and in the later filed application must be sufficient to comply with the requirements of the first paragraph of 35 USC 112. See MPEP 201.11 (I. Written Description).

DECISION

For the reasons set forth above, applicant's right of priority is denied and applicant's petition is **DENIED**.

Upon review of the Office action, it was noted that the examiner indicated applicant had submitted a preliminary amendment on the filing date of the instant application comprising the pending claims and recited subject matter and that, therefore, the pending claims do not constitute new matter. However, MPEP 601.01(a) states if an amendment is filed on the same day that the application filed under 37 CFR 1.53(b) is filed and is referred to in the original oath or declaration filed with or after the application, it constitutes a part of the original application papers and the question of new matter is not considered. Therefore, to avoid the question of new matter in the instant application, applicant should submit a new oath or declaration referring to the preliminary amendment.

This application will be forwarded to the examiner for consideration of the amendment of May 24, 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.

Jasemine C. Chambers

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

AUG - 6 2004

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA GA 30361

In re Application of:
David William Holden
Serial No.: 09/714,602
Filed: November 16, 2000
Attorney Docket No.: RPMS 101 CON 3

DECISION ON PETITION

This is in response to applicant's petition under 37 CFR § 1.181 sent by facsimile transmission on March 10, 2004, requesting review of the Examiner's assertions for denying applicant's right of priority to parent applications 09/201,945 and 08/637,759.

BACKROUND

Applicant filed this application which is a continuation application of 09/201,945 and 08/637,759. The examiner issued a first Office action on November 17, 2003 rejecting the instant claims under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The examiner additionally denied priority of the instant application to the parent applications recited above because the conditions of 35 USC 120 have not been satisfied.

DISCUSSION

Applicant states that this application is a continuation of 09/201,945 and 08/637,759 and that the specification of the priority applications is identical to the specification of the present application. Applicant further states that while the examiner can question the enablement of the specification of the claims on appeal, he cannot deny priority since the specifications are identical.

A review of the application establishes that there is no disclosure in the 09/201,945 or 08/637,759 applications of the broadly claimed methods recited in the pending claims. The earlier applications were specifically limited to methods of identifying genes where the methods comprise insertional inactivation of genes within the genome of a target microorganism (e.g. a pathogen) with transposon elements (or "transposon-like" elements) comprising a unique nucleic acid tag sequence. The instant claims recite methods that are not reliant upon insertional inactivation of genes by a transposon or "transposon-like" element, nor do they necessarily depend upon a comparison of the unique tag sequences isolated from surviving microorganism to those initially introduced into the particular environment (e.g.

claims 57 and 86). Therefore, the pending claims encompass embodiments that are not encompassed by the earlier applications. Accordingly, applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120 since the instant application must be an application for a patent for an invention which is also disclosed in the prior application; the disclosure of the invention in the parent application and in the later filed application must be sufficient to comply with the requirements of the first paragraph of 35 USC 112. See MPEP 201.11 (I. Written Description).

DECISION

For the reasons set forth above, applicant's right of priority is denied and applicant's petition is **DENIED**.

Upon review of the Office action, it was noted that the examiner indicated applicant had submitted a preliminary amendment on the filing date of the instant application comprising the pending claims and recited subject matter and that, therefore, the pending claims do not constitute new matter. However, MPEP 601.01(a) states if an amendment is filed on the same day that the application filed under 37 CFR 1.53(b) is filed and is referred to in the original oath or declaration filed with or after the application, it constitutes a part of the original application papers and the question of new matter is not considered. Therefore, to avoid the question of new matter in the instant application, applicant should submit a new oath or declaration referring to the preliminary amendment.

This application will be forwarded to the examiner for consideration of the amendment of May 24, 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.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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DEC 27 2004

PATREA L. PABST
PABST PATENT GROUP, LLP
400 COLONY SQUARE
SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

In re Application of :
David William Holden :
Serial No.: 09/714,602 : PETITION DECISION
Filed: November 16, 2000 :
Attorney Docket No.: RPMS 101 CON 3 :

This is in response to the renewed petition under 37 CFR 1.181, filed August 6, 2004, requesting review and reversal of the petition decision mailed August 6, 2004, in response to the petition filed March 10, 2004.

BACKGROUND.

A review of the file history shows that this application was filed using Utility Application Transmittal Form PTO/SB/05, provided by the Office. On the form, boxes 1, 3, 4, 6(b), 8(a) and (c), 9, 10, 13, 14, 16 and 17 are checked. Box 3 relates to the specification, box 4 to the drawings, and box 6(b) to the declaration. Box 6(b) clearly states that the declaration is a copy from a previous (parent) application (for a continuation/divisional application). Box 17 provides the continuation data required, specifically that this application is a continuation of prior application 09/201,945. The transmittal sheet is signed by Robert A. Hodges, one of the attorney's of record in the parent application. Furthermore, a review of the specification, claims and drawings show that they are identical to the original parent application papers. No subject matter has been added to the original specification or drawings by amendment or any other change. Only the claims have been amended by preliminary amendment. Thus the application satisfies the requirements of 37 CFR 1.63 in that the original papers are identical to the parent application. Furthermore, the declaration supplied with the application is signed by the inventor and dated 1996, showing it to be a copy of the original papers from the parent application. Such a declaration is acceptable only when the newly filed application is the same as the parent application. Therefore, applicant's claim of priority, as set forth in the transmittal letter, is proper and correct.

In the last Office action the examiner denied applicants claim for priority based on subject matter now claimed in the continuing application which is purportedly not supported by the original specification and claims. On this basis the examiner has also set forth a rejection of the claims under 35 U.S.C. 112, first paragraph as lacking support in the specification. This rejection is

perfectly proper. The examiner states in the Office action of 11/17/03, at page 2, first paragraph, "...the instant application contains additional subject matter not contained within the application to which priority is claimed..." and this necessitates denial of priority. No identification of additional subject matter in the specification is here made. On page 3, a further explanation is made stating that applicant has not complied with one or more conditions of 35 U.S.C. 120. The examiner then argues that the parent applications have no disclosure in their specifications of the currently claimed methods sufficient to comply with 35 U.S.C. 112. While this may be a true statement, it is insufficient to deny priority, but sufficient to reject the claims under 35 U.S.C. 112. The cure for such rejection is for applicant to amend the specification based on the disclosure in the newly added claims to provide proper support therefore and to redesignate the application as a CIP. The examiner's statement (last paragraph, page 4) the "This application repeats a substantial portion of prior Application No. 09/201,945, filed 12/1/98, and adds and claims additional disclosure not presented in the prior application" is only partly accurate. The entire specification and original claims of the prior application are presented as well as a preliminary amendment presenting new claims with a directive to amend or cancel some original claims. The preliminary amendment is not part of the original application on which a priority claim is being based and plays no part in determining whether the priority claim is proper. Whether the new claims in the preliminary amendment are properly supported by the original specification and claims is a consideration which must be reserved for 35 U.S.C. 112 only. Analogously, if applicant had filed a CPA (or RCE) request and amended the application by adding the same new claims (by preliminary amendment) no question of denial of priority would have been raised, only whether the claims satisfy the requirements of 35 U.S.C. 112.

The examiner in the same Office action objected to the Oath or Declaration as being defective due to the introduction of new subject matter. However, no new matter has been introduced to the original specification or claims. Therefore, no new declaration is required unless the specification is subsequently amended to provide proper support for subject matter now claimed which is unsupported by the original specification. Should this occur, a new declaration by the inventor would be required and the application would be designated a CIP.

It is noted that the merits of the examiner's rejections, as argued in the renewed petition are not addressed herein. Such arguments are appropriate for response to the outstanding Office action.

The renewed petition is **GRANTED**. Priority to applicant's parent applications is granted.

The application remains rejected in view of the outstanding Office action, mailed August 10, 2004, to which applicant must respond within the time period set, or as extended under 37 CFR 1.136(a).

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

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 28, 2006

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/714663 patent No.: 7,070,770

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: _____

JUHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1600

SPE **Art Unit** 1616

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,070,770 B1 Page 1 of 1

APPLICATION NO.: 09/714,663

ISSUE DATE: July 4, 2006

INVENTOR(S): Nathalie GARNIER et al.

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

On the title page, insert --Assignee: L'Oréal S.A., Paris (FR)--.

Claim 9, column 8, line 37, "$C_1$to" should read --C_1 to--.
line 41, "thioloactic" should read --thiolactic--.

Claim 12, column 8, line 56, "thioloactic" should read --thiolactic--.

Claim 20, column 9, line 32, "chose" should read --chosen--.

Claim 31, column 10, line 49, "Proviso" should read --proviso--.

Claim 32, column 11, line 20, "optionallv" should read --optionally--.
line 28, "C," should read --C_1--.
line 62, "C8" should read --C_8--.

Claim 33, column 12, line 38, "C8" should read --C_8--.
line 49, "agent:" should read --agent;--.

Claim 61, column 14, line 54, "thioloactic" should read --thiolactic--.

Claim 64, column 15, lines 1-2, "thioloactic" should read --thiolactic--.

Claim 72, column 15, line 44, "chose" should read --chosen--.

Claim 83, column 17, line 1, "agents:" should read --agents;--.

Claim 83, column 18, line 2, "colorants:" should read --colorants;--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,070,770 B1 Page 1 of 1

APPLICATION NO.: 09/714,663

ISSUE DATE: July 4, 2006

INVENTOR(S): Nathalie GARNIER et al.

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

On the title page, insert --Assignee: L'Oréal S.A., Paris (FR)--.

Claim 9, column 8, line 37, "$C_1$to" should read --C_1 to--.
line 41, "thioloactic" should read --thiolactic--.

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line 62, "C8" should read --C_8--.

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line 49, "agent:" should read --agent;--.

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Claim 64, column 15, lines 1-2, "thioloactic" should read --thiolactic--.

Claim 72, column 15, line 44, "chose" should read --chosen--.

Claim 83, column 17, line 1, "agents:" should read --agents;--.

Claim 83, column 18, line 2, "colorants:" should read --colorants;--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
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901 New York Avenue, N.W.
Washington, D.C. 20001-4413

2006

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

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 09/714,692	:	ON PETITION
Filed: November 16, 2000	:	
Attorney Docket No. D-6233CIP/ CLFR:190US	:	

This is a decision on the petition under 37 CFR 1.181, filed July 3, 2006, 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 was held abandoned for failure to timely reply to the Decision on Appeal mailed March 31, 2006, which set a period for reply of two (2) months. A reply was due on or before May 31, 2006. A Notice of Abandonment was mailed on June 7, 2006.

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 June 5, 2006 of 1. Request for Continued Examination (RCE); 2. Amendment and Response; and 3. Transmittal. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of May 31, 2006.

A review of the application file shows that the above-listed documents originally submitted on June 5, 2006 (Certificate of Mailing date May 31, 2006) are of record. Further, USPTO financial records reflects payment of the $395.00 extension of time fee on June 5, 2006.

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 and none has been charged.

This matter is being referred to Technology Center AU 1647 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Thomas J. Quigley et al :
Application No. 09/714,713 : DECISION GRANTING PETITION
Filed: November 16, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.132000H :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

#5

APR 11 2001

In re Application of
Janine K. Kardoukus et al
Serial Number: 09/714,714
Filed: November 15, 2000
For: COPPER-CONTAINING SPUTTERING TARGETS, AND METHODS OF FORMING COPPER-CONTAINING SPUTTERING TARGETS

DECISION
ON
PETITION

This is in response to the petition filed November 15, 2000, requesting that the above-identified application be granted Special Status under Section 708.02 (VII) of the MPEP.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

Richard V. Fisher

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

Christine Parker & Hales LLP
P.O. Box 7086
Pasadena, CA 91109-7086

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MAR 18 2008

OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Application of
Paasche et al.
Application No. 09/714,739
Filed: November 16, 2000

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on Sept. 07, 2007 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 0 days to 0days.

Applicants' petition to correct PTA is **GRANTED-in Part.** The Office will adjust the PTA at the time of the mailing of the notice of allowance to reflect a determination of ZERO (0) days with 421 days of Office delay and 528 days of Office delay.

Applicant argues that the Office erred in the calculations of the PTA. The applicant argues that the Office first erred in failing to assess a 17 day delay in the submission of an IDS on April 7, 2006. The applicant asserts that the failure to enter the IDS into the PALM record lead to an incorrect PTA calculation.[1] In addition, the Applicants allege that the Office erred entering the date of the RCE submitted as February 9, 2007 rather than February 8, 2007.[2] Furthermore, Applicant assert that the reduction for the submission of the IDS on March 21, 2007 should be removed because applicant incorporated a statement pursuant to 37 CFR 1.704(d) that waives any reduction under 37 CFR 1.704(c)(8).

Applicant arguments as are persuasive to the extent indicated herein. First, the reduction of 17 days for the submission of an IDS on April 7, 2007 is accurate. The applicants did submit the IDS on April 7, 2007 as evidence on the file record. However, the PALM file history does not include the submission of the IDS on April 7, 2007. Accordingly, the PTA did not reduce the PTA for this event. Second, the Office did err in the entry of Feb. 9, 2007 as the date of the submission of the RCE. Record indicate that the submission was filed on Feb. 8, 2007 by express mail. Accordingly the reduction should have been 92 days rather than the 93 days assessed under 1.704(b). Finally, applicants assertion that the forty day reduction under 37 CFR 1.704(c)(8) should be removed because of the appellant waiver statement submitted under 37 CFR 1.704(d) with the IDS is NOT found persuasive because the applicant failed to submit the

[1]It is noted that the Image File Wrapper (IFW) reflects the submission of the IDS on April 7, 2006.

[2]It is noted that the submission of the RCE was by express mail having label

proper language in the waiver statement.[3] Accordingly, the Office will not waive the 40-day reduction period. It is further noted that since applicants filed the RCE on Feb. 8, 2007 and not Feb. 9, 2007, then the reduction is 41 days rather than 40 days. Accordingly, based upon this decision, the Office will add (17-1+1=17) 17 additional days of applicant delay.

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 pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

The Office has assessed the $200.00 fee. No additional fees are required in deciding this petition matter.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery A Fries

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

cc: Copy of Adjusted Pair Calculation

---

[3]It is noted that Applicant used the language " was first cited in **a** foreign communication from a foreign patent office in a counterpart application" (emphasis added). Applicant needed to certify that each reference "was not cited in **ANY** foreign communication from a foreign patent office in a counterpart application." The language has different meaning and prevents applicants from waiving IDS submission when applicant receives two communications identifying the same reference but applicant not submitting the waiver to state that the IDS submission was within 30 days of first cited communication citing that reference.

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In re Patent No. 6584768
Issue Date: July 1,2003
Application No. 09714741
Filed: November 16,2000
Attorney Docket No. A1P1-D01

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

This is a decision on the electronic petition, filed December 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,584,768	2003-07-01	09/714,741	2000-11-16	AIP1-D01

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	/Karl M. Steins/	Date (YYYY-MM-DD)	2008-12-23
Name	Karl M. Steins	Registration Number	40186

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

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

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

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

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

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

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OFFICE OF PETITIONS

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

In re Application of :
Kerker, et al. : LETTER REGARDING PATENT
Application No. 09/714,774 : TERM ADJUSTMENT
Filed: November 16, 2000 :
Atty. Dkt. No: 9974/55 :

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed June 6, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed April 2, 2007, indicated that the PTA to date is 304 days. Applicants suggest that the adjustment of 304 days may be longer than appropriate and request review and, if necessary, correction of the PTA calculation.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 303 days.

At the time of allowance, an adjustment of 456 days can be attributed to the Office. The application is entitled to an adjustment of 401 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on February 21, 2003. The application is also entitled to an adjustment of 55 days in accordance with 37 CFR 1.702(a)(4) in connection with the mailing of the Notice of Allowance on April 2, 2007.

The adjustment totaling 456 days is properly reduced a total of 153 days. As reflected in the Determination of Patent Term Adjustment, the adjustment is properly reduced 29 days in accordance with 37 CFR 1.704(b) in connection with the reply filed June 19, 2003 in response to the non-final Office action mailed February 21, 2003. As further reflected in the Determination of Patent Term Adjustment, the adjustment is further reduced 97 days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed February 17, 2004. As further reflected in the Determination of Patent Term Adjustment, the adjustment is further reduced 26 days in

accordance with 37 CFR 1.704(b) in connection with the request for continued examination filed April 15, 2005.

While not reflected in the Determination of Patent Term Adjustment, the adjustment is further reduced ONE day in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement filed October 12, 2005. The adjustment began October 12, 2005, the day after the day that a reply to the final Office action was filed, and ended October 12, 2005, the date that the supplemental paper was filed.

In view thereof, at the time of allowance, the application was entitled to 303 days of patent term adjustment.

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).

The application is being forwarded to Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 9/5/2007
Time: 15:32:00

PTA Calculations for Application: 10/714774			
Application Filing Date:	11/17/2003	PTO Delay (PTO):	614
Issue Date of Patent:	08/28/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	613
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	09/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
41.5	08/08/2007	PTA 36 MONTHS			
41	08/28/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
40	07/30/2007	EXPORT TO FINAL DATA CAPTURE			
39	07/27/2007	DISPATCH TO FDC			
38	07/27/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	07/23/2007	ISSUE FEE PAYMENT VERIFIED			
36	07/23/2007	ISSUE FEE PAYMENT RECEIVED			
35	05/25/2007	FINISHED INITIAL DATA CAPTURE			
34	04/27/2007	EXPORT TO INITIAL DATA CAPTURE			
33	04/23/2007	MAIL NOTICE OF ALLOWANCE	2		24
32	04/19/2007	ISSUE REVISION COMPLETED			
31	04/06/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
30	04/06/2007	DOCUMENT VERIFICATION			
29	04/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	04/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
27	04/02/2007	NOTICE OF ALLOWABILITY			
26	12/21/2006	NEW OR ADDITIONAL DRAWING FILED			
25	01/10/2007	DATE FORWARDED TO EXAMINER			
24	12/21/2006	RESPONSE AFTER NON-FINAL ACTION			
23	01/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	09/21/2006	MAIL NON-FINAL REJECTION	612		-1
21	09/18/2006	NON-FINAL REJECTION			

20	11/17/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	11/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	11/17/2003	REFERENCE CAPTURE ON IDS			
15	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	02/12/2004	APPLICATION RETURN FROM OIPE			
12	02/12/2004	APPLICATION RETURN TO OIPE			
11	02/12/2004	APPLICATION RETURN FROM OIPE			
10	02/12/2004	APPLICATION IS NOW COMPLETE			
9	11/17/2003	PGPUBS NONPUB REQUEST			
8	02/12/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	02/12/2004	APPLICATION RETURN TO OIPE			
6	02/12/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/12/2004	APPLICATION IS NOW COMPLETE			
4	02/03/2004	CLEARED BY OIPE CSR			
3	02/03/2004	CASE CLASSIFIED BY OIPE			
2	12/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/17/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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421 W RIVERSIDE AVENUE, SUITE 500
SPOKANE, WA 99201

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FEB 29 2008

In re Application of	:	
Scott A. FIELD, et al	:	
Application No. 09/714,781	:	DECISION ON PETITION
Filed: November 15, 2000	:	
Attorney Docket No. MS1-649US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 21, 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 application became abandoned on January 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500; and (3) an adequate 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 2193 for appropriate action by the Examiner in the normal course of business on the reply received May 4, 2007.

April Wise
Petitions Examiner
Office of Petitions

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Paper No. 6

Skjerven Morrill MacPherson
25 Metro Drive, Suite 700
San Jose, CA 95110

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OCT 2 5 2001

OFFICE OF PETITIONS

In re Application of :
Saleh et al. :
Application No. 09/714,784 : DECISION GRANTING STATUS
Filed: November 15, 2000 : UNDER 37 CFR 1.47(a)
For: Resource Management Protocol For a Configurable Network Router :

This is a decision on the petition under 37 CFR 1.47(a) filed August 20, 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 Technology Center AU 2662 for examination in due course.

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

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Ali Najib Saleh
501 Royal Plaza Drive
Ft. Lauderdale, FL 33301

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OCT 2 5 2001

OFFICE OF PETITIONS

In re Application of
Ali N. Saleh, H. Michael Zadikian, John C. Adler, Zareh Baghdasarian and Vahid Parsi
Application No. 09/714,784
Filed: November 15, 2000
For: Resource Management Protocol For a Configurable Network Router

Dear Mr. Saleh:

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 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 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

cc: Skjerven Morrill MacPherson
25 Metro Drive, Suite 700
San Jose, CA 95110

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4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Application of	:	
Ali Najib Saleh, et. al.	:	
Application No. 09/714,784	:	DECISION ON PETITION
Filed: November 15, 2000	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. CIS0009P3US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed by facsimile transmission on August 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Since the instant application is filed prior to November 29, 2000, the petition and petition fee of $1,370 are unnecessary and will be credited to petitioner's deposit account.

The Office acknowledges receipt of a request to withdraw the instant petition filed by facsimile transmission on August 15, 2005.

The application is being referred to Technology Center AU 2668.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

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1425 K Street, N. W.
Suite 800
Washington, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Douglas E. Becker, et al. :
Application No. 09/714,877 : ON PETITION
Filed: November 17, 2000 :
Attorney Docket No. 2436-105 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2004, 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 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 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
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

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

In re Application of: Sanjeev Kriplani et al.
Application No. 09/714,898
Filed: November 15, 2000
For: SYSTEM AND METHOD FOR INVOICE CONFIRMATION AND FUNDING

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed September 17, 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(i);

(b) Presents all claims directed to a single invention, ...

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

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Penrose Lucas Albright Esq
MASON MASON & ALBRIGHT
2306 South Eads Street
P O Box 2246
Arlington VA 22202-0246

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OFFICE OF PETITIONS

In re Patent No. 6,463,877
Issue Date: October 15, 2002
Application No. 09/714,954
Filed: November 20, 2000
For: Construction Including An Implement For Automatically Milking Animals

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 7, 2009.

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.

It is noted that the power of attorney submitted on April 3, 2009, will not be entered as the request was not submitted with a statement pursuant to 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record. If appropriate the proper power attorney documents should also be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Michael Bell
Howrey, Simon Arnold & White, LLP
1299 Pennsylvania Ave., NW
Washington, DC 20004

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1100 North Glebe Rd., 8th Floor
Arlington, VA 22201-4714

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OFFICE OF PETITIONS

In re Application of

Johnsen, et al.

Application No. 09/714,956

Filed: November 20, 2000

Attorney Docket No. 3842-5

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 29, 2004.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 2, 2004, after it was believed that no response was received to the non-final Office action mailed December 1, 2003. The non-final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on July 26, 2004, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on March 1, 2004. A copy of the amendment containing a certificate of facsimile transmission dated March 1, 2004, and noting eighteen pages as having been successfully transmitted to the USPTO central fax line on March 1, 2004, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Deposit account 14-1140 will be refunded the amount of $130.00 that it was charged on July 29, 2004.

The application file is being forwarded Technology Center 2100, GAU 2174, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 500
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application	:	
Dodo, et al.	:	
Application No. 09/715,036	:	DECISION ON APPLICATION
Filed: November 20, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 077281-0104	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.705", 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 (0) days to fifty-two (52) 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 **fifty-two (52) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 2, 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 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 fifty-two (52) days.

Applicants assert entitlement to a patent term adjustment of fifty-two (52) days on the basis that the PTO improperly assessed Applicants a delay of one hundred thirteen (113) days for responding to a Notice to File Missing Parts mailed on January 19, 2001. Applicants assert that they filed a complete response on May 18, 2001, and as such should only have been assessed delay of twenty-nine (29) days.

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 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 one hundred thirteen (113), twenty-eight (28), and ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of one hundred thirteen (113) days is at issue.

The adjustment of one hundred thirteen (113) 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 January 19, 2001. Applicants filed a complete response to this notice on May 18, 2001. As this was not timely pursuant to 37 C.F.R. § 1.704(b), applicant delay of twenty-nine (29) days should have been assessed, not one hundred thirteen (113) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **fifty-two (52) days** (200 days of PTO delay, reduced by 148 (91+28+29) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

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 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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FOLEY & LARDNER
3000 K ST NW
SUITE 500
WASHINGTON DC 20007

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DEC 21 2005

OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Dodo, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 09/715,036	: AND
Filed: November 20, 2000	: NOTICE OF INTENT TO ISSUE
Patent No. 6,943,010	: CERTIFICATE OF CORRECTION
Issued: September 13, 2005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed November 14, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty-nine (189) days to three hundred nine (309) days.

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

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred nine (309) days**.

On August 30, 2004, applicants timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA was not zero (0) days, but fifty-two (52) days. The application for patent term adjustment was granted in a decision mailed on July 14, 2005. On September 13, 2005, the above

identified application issued into patent No. 6,943,010. The patent stated that the patent term adjustment (PTA) is one hundred eighty-nine (189) days.

Patentees point out that they were improperly assessed applicant delay of one hundred twenty (120) days for filing the application for patent term adjustment on August 30, 2004.

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 of the patent is **three hundred nine (309) days**.

Given the basis for granting this petition, the $200.00 fee set forth in 37 C.F.R. §1.18(e) has been refunded to Deposit Account No. 19-0741.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **three hundred nine (309) days**.

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

Kery A Fries

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

Enclosure: Copy of Draft Certificate of Correction

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of
McDonnell, et al.
Application No. 09/715,131
Filed: November 20, 2000
Attorney Docket No. 1509-135

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 16, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 30, 2007. A Notice of Abandonment was mailed on February 27, 2007. On March 16, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ALLAN M. LOWE
LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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COMMISSIONER FOR PATENTS
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Paper No. 18

e-Cognito, Inc.
4815 B-Eisenhower Avenue
Alexandria, VA 22304

COPY MAILED

NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Charles E. Sigler, et al. :
Application No. 09/715,176 : ON PETITION
Filed: November 20, 2000 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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.

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).

Petitioner tendered a check in the amount of $1300 for the petition fee, whereas the required petition fee at that time was $1330. A review of the file record shows a general authorization to charge fees; however, a "Petition for Attorney Withdrawal under 37 CFR 1.36" was filed on August 18, 2003. In view of the withdrawal, the general authorization to charge fees is no longer valid. As such, the balance of the fee owed could not be charged to a deposit account. Petitioner must submit the remaining balance of the petition fee to revive this application.

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

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

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

U. S. Patent and Trademark Office
220 20th Street
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

eCogNito, Inc.
8619 Westwood Center Drive
Suite 420
Vienna, VA 22182

COPY MAILED

FEB 0 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Charles E. Sigler, et al. :
Application No. 09/715,176 :
Filed: November 20, 2000 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center 3600.

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

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Paper No. None

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

MAY 25 2007

OFFICE OF PETITIONS

In re Application of Charles E. Sigler, Jr. et al. Application No. 09/715,176 Filed: November 20, 2000 Attorney Docket Number: 198966US8 Title: SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR MAINTAINING CONSUMER PRIVACY AND SECURITY IN ELECTRONIC COMMERCE TRANSCTIONS	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed March 14, 2007, to withdraw the holding of abandonment.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 27, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on January 23, 2006.

On March 14, 2007, the present petition was filed, along with an amendment and a Power of Attorney.

The Power of Attorney has been entered and made of record.

Petitioner seeks the withdrawal of this notice of abandonment, and has asserted that neither the non-final Office action nor the notice of abandonment was received. He has asserted that both mailings were returned to the Office as undeliverable - the electronic record has been reviewed, and it is clear that both mailings were indeed returned to the Office as undeliverable.

Petitioner's submission has been considered, and it has been deemed to be unpersuasive. Consequently, it has not been established that the notice was improper and should be withdrawn. A discussion follows.

Analysis

Petitioner has further explained that on September 8, 2003, the Office approved the withdrawal of Oblon, Spivak, Mcclelland, Maier & Neustadt, P.C. (Oblon) as attorneys of record for the present application, and the new mailing address became "eCognito, Inc., 515 King Street, Suite 330[1], Alexandria, VA, 22314." On January 24, 2007, the present assignee (an entity by the name of Megasoft Consultants, Inc.) requested Petitioner to ascertain the status of the present application.

This is only part of the story. The electronic record confirms that between the approval of the withdrawal of attorney of record and January 24, 2007, there have been a plurality of changes of address in conjunction with the present application. Furthermore, this is not the first time this application has gone abandoned for failure to reply to an Office communication.

- On August 1, 2003, the Office mailed a restriction requirement to the law firm of Oblon, at the present address of record. The restriction requirement set a shortened statutory period to reply for one month. No reply was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested.
- On August 18, 2003, Oblon filed a Petition to withdraw as attorney of record. Oblon requested that all further communications be forwarded to the Assignee at "eCognito, Inc., 515 King Street, Alexandria, VA, 22314."
- The present application became abandoned on September 2, 2003, for failure to respond to the restriction requirement.
- Oblon's request to withdraw as attorney of record was granted via the mailing of a Notice regarding Change of Power of Attorney on September 8, 2003. The notice was mailed to both Oblon and the assignee at the 515 King Street address.

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1 The Office will presume that this is a typographical error, as this does not appear to be the correct street address. If this is not a typographical error, Petitioner must notify the Office.

- A Notice of abandonment was mailed on February 24, 2004 to the assignee. The notice was addressed to eCognito at the 515 King Street address.
- On May 13, 2004, a facsimile transmission was received from Sunny Dewakar, the CEO and President of eCognito, requesting that the address be changed to "eCognito, Inc., 4815-B Eisenhower Avenue, Alexandria, VA, 22304."
- On July 2, 2004, the notice of abandonment was re-mailed to the address on Eisenhower Avenue.
- On July 27, 2004, despite the fact that Oblon's request to withdraw as attorney of record had been granted by the Office, Oblon submitted a response to the restriction requirement, along with a petition to revive pursuant to Rule §1.137(b). Both filings indicated that the correspondence address should be e-Cognito, at the Eisenhower Avenue address.
- On August 30, 2004, Ms. Dewakar informed the Office that eCognito had moved again, to the address of "8619, Westwood Center Drive, Suite #420, Vienna, VA, 22182."
- A decision on the petition to revive was mailed on November 26, 2004, to the address on Eisenhower Avenue.
- On December 2, 2004, the copy of the mailing of September 8, 2003 that was sent to eCognito at the 515 King Street address was returned to the Office. This strongly suggests that around the time of September 8, 2003, eCognito was no longer located at the King Street address. Since eCognito did not inform the Office that it had moved from the King Street address until May 13, 2004, this strongly suggests that eCognito did not inform the Office of the change of address in a timely manner.
- It appears that although the decision on the petition to revive was not mailed to the address in Vienna, it was received: on December 8, 2004, Oblon filed a renewed petition.
- The petition to revive was granted via the mailing of a decision on February 4, 2005 to the address in Vienna.
- On June 27, 2005, a non-final Office action was mailed the address in Vienna.
- This mailing was returned to the Office on August 4, 2005.
- A notice of abandonment was mailed on January 23, 2006 to the address in Vienna.
- This mailing was returned to the Office on January 26, 2006.

It is clear that the physical address of eCognito changed on numerous occasions during the relevant timeframe. It is equally clear that Oblon was no longer the attorney of record at the time that the non-final Office action was mailed. Furthermore, the record strongly suggests that eCogntio did not always apprise the Office of its movements in a timely manner.

What is not clear is whether eCognito was located at the address in Vienna at the time when both the non-final Office action and the subsequent notice of abandonment were mailed.

Due to eCognito's frequent migrations, it seems highly likely that these mailings were returned to the Office because eCognito was no longer located at the Vienna address, and eCognito had failed to apprise the Office that it had moved.

Petitioner has not provided any indication as to whether the Vienna address was the correct address at the time of these two mailings.

On renewed petition, Petitioner will need to provide a statement from either an officer or an employee of eCognito, having firsthand knowledge of whether or not eCognito was located at 8619 Westwood Center Drive, Suite #420, Vienna, VA, 22182 on June 27, 2005 and January 23, 2006.

Conclusion

This petition must be **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 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

concerning examination procedures or status of the application should be directed to the Technology Center.

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

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reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WWW.USPTO.GOV

Paper No. None

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of :
Charles E. Sigler, Jr. et al. :
Application No. 09/715,176 : DECISION ON PETITION UNDER
Filed: November 20, 2000 : 37 C.F.R. § 1.137(B)
Attorney Docket Number: :
198966US8 :
Title: SYSTEM, METHOD, AND :
COMPUTER PROGRAM PRODUCT FOR :
MAINTAINING CONSUMER PRIVACY :
AND SECURITY IN ELECTRONIC :
COMMERCE TRANSACTIONS :

This is a decision on the petition filed June 26, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

June 27, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on January 23, 2006.

On March 14, 2007, a petition was filed pursuant to Rule § 1.181(a), and was dismissed via the mailing of a decision on May 25, 2007.

ANALYSIS

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required. The proper response was submitted on March 20, 2007.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED.**

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on March 20, 2007 can be processed.

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/21/2010

Applicant	: Charles E. Sigler JR.	: DECISION ON REQUEST FOR
Patent Number	: 7636696	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/715,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1292** 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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WASHINGTON, DC 20231
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Paper No. 8 9

MARK A. WILSON
WILSON & HAM
PMB: 348
2530 BERRYESSA ROAD
SAN JOSE CA 95132

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APR 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of : DECISION ON REQUEST TO
Kuo et al. : WITHDRAW AS ATTORNEY
Application No. 09/715,275 :
Filed: November 17, 2000 :
For: POINT-TO-MULTIPOINT PASSIVE OPTICAL NETWORK THAT UTILIZES VARIABLE-LENGTH PACKETS :

This is a decision on the request to withdraw as attorney/agent of record filed on March 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Alloptic, Inc.
2301 Armstrong Street, Suite 101
Livermore, CA 94550

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAIL Paper No. 17

MARC E. HANKIN
GORDON & REES
300 S GRAND AVENUE, SUITE 2075
LOS ANGELAS CA 90071

JUN 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
KUO, JERCHEN, et al.
Application No. 09/715,275
Filed: November 17, 2000
For: **POINT-TO-MULTIPOINT PASSIVE OPTICAL NETWORK THAT UTILIZES VARIABLE-LENGTH PACKETS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed April 20, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the final Office action mailed August 12, 2003. A Notice of Abandonment was mailed on November 16, 2004.

Petitioner asserts that a proper response was timely filed on February 12, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on February 12, 2004. A copy of a petition for three months extension of time and a Notice of Appeal are also included.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application. The fees for extension of time and Notice of Appeal have been credited to the application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

AF.

05PO

2667

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JUN 17 2005

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Paper No. 17

JUN 03 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARC E. HANKIN
GORDON & REES
300 S GRAND AVENUE, SUITE 2075
LOS ANGELAS CA 90071

In re Application of
KUO, JERCHEN, et al.
Application No. 09/715,275
Filed: November 17, 2000
For: **POINT-TO-MULTIPOINT PASSIVE OPTICAL NETWORK THAT UTILIZES VARIABLE-LENGTH PACKETS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed April 20, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the final Office action mailed August 12, 2003. A Notice of Abandonment was mailed on November 16, 2004.

Petitioner asserts that a proper response was timely filed on February 12, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on February 12, 2004. A copy of a petition for three months extension of time and a Notice of Appeal are also included.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application. The fees for extension of time and Notice of Appeal have been credited to the application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 7031343 B1

Paper No.: —

DATE : 5/18/07

TO SPE OF : ART UNIT 2668

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/715275 Patent No: TOP

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: _____

_____

_____

_____

_____

_____ 2616
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. 7

Dennis T. Griggs
Griggs & Johnston LLP
17950 Preston Rd.
Suite 1000
Dallas, TX 75252

MAILED

APR 10 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of:
Pfaff
Application No. 09/715,290
Filed: November 17, 2000

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 11, 2002.

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 Dennis T. Griggs on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Michael L. Gellner at 703-308-1721.

M. L. Gellner

Michael L. Gellner, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Wayne K. Pfaff
2601 Texas Dr.
Irving, TX 75062

UNITED STATES 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
222 N. LASALLE STREET
CHICAGO IL 60601

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Montgomery :
Application No. 09/715,350 : ON PETITION
Filed: November 17, 2000 :
Attorney Docket No. 0500.0003231 :
For: METHOD AND APPARATUS
IMPROVING EFFICIENCY OF END-USER
CERTIFICATE VALIDATION

This is a decision on the petition, filed March 9, 2006 (certificate of mailing date March 7, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 14, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 15, 2005. A Notice of Abandonment was mailed on January 31, 2006.

Applicant has submitted an amendment in reply to the July 14, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 14, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2134 for consideration of the amendment filed on March 9, 2006 (certificate of mailing date March 7, 2006).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

Fenwick & West
Two Palo Alto Square
Palo Alto, CA 94306

COPY MAILED

OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of
Nicholas J. Rush et al.
Application No. 09/715,385
Filed: November 16, 2000
For: Positive-Return Gambling

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed July 24, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to Technology Center AU 3711 for examination in due course.

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

Jason M. Kapalka
526 Shrader Street
San Francisco, CA 94117

COPY MAILED

OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of
Nicholas J. Rush, Jason M. Kapalka, Sukhbir S. Sidhu
Application No. 09/715,385
Filed: November 16, 2000
For: Positive-Return Gambling

Dear Mr. Kapalka:

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 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 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

cc: Fenwick & West
Two Palo Alto Square
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Sukhbir S. Sidhu
320 North Civic Drive, #313
Walnut Creek, CA 94596

COPY MAILED

OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of
Nicholas J. Rush, Jason M. Kapalka, Sukhbir S. Sidhu
Application No. 09/715,385
Filed: November 16, 2000
For: Positive-Return Gambling

Dear Mr. Sidhu:

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 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 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

cc: Fenwick & West
Two Palo Alto Square
Palo Alto, CA 94306

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/06

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction on Patent No.: 6966836

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:

Changes to claims correspond to amdmnt filed 17 Feb 05. Those are the claims that were allowed.

CORBETT B. COBURN
PRIMARY EXAMINER

Scott E. Jones
SPE

3714
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,966,836 B1

APPLICATION NO.: 09/715,385

ISSUE DATE : November 22, 2005

INVENTOR(S) : Nicholas J. Rush; Jason M. Kapalka; Sukhbir S. Sidhu

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Claim 1, at Column 12, at line 66, please delete "player;" and insert therefor:

-- first one of a plurality of players;--

In Claim 1, at Column 13, line 1, delete "account, " and insert therefor:

-- account responsive to gameplay of the first user in a game provided by the apparatus, --

In Claim 1, at Column 13, line 3, please delete "players;" and insert therefor:

-- players, wherein tokens are credited or debited to the at least one token account at each of a plurality of payout events associated with the game, each payout event having an associated payout value in tokens and an odds of occurrence, wherein for each payout event, the payout value multiplied by the odds of occurrence produces a yield per token bet, wherein a total of the yields per token bet for all payout events is greater than one, and wherein one or more payout events have a token payout value that is less than a number of tokens bet and wherein said one or more payout events have a combined odds of occurrence of greater than 50 percent; --

In Claim 1, at Column 13, line 6, please delete "tokens." and insert therefor:

-- tokens, wherein the total number of tokens varies, and wherein a total value of all tokens in the set of tokens is constant. --

In Claim 21, at column 13, line 67, please delete "a gambling game," and insert therefor:

-- positive-return gambling, --

In Claim 21, at column 14, line 6, please delete "players;" and insert therefor:

-- players, wherein tokens are credited or debited to the at least one token account at each of a plurality of payout events associated with the game, each payout event having an associated payout value in tokens and an odds of occurrence, wherein for each payout event, the payout value multiplied by the odds of occurrence produces a yield per token bet, wherein a total of the yields per token bet for all payout events is greater than one, and wherein one or more payout events have a token payout value that is less than a number of tokens bet and wherein said one or more payout events have a combined odds of occurrence of greater than 50 percent; --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

TOWNSEND AND TOWNSEND AND CREW LLP
Attn. Gerald T. Gray
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

60688387 v1

FEB 03 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,966,836 B1

APPLICATION NO.: 09/715,385

ISSUE DATE : November 22, 2005

INVENTOR(S) : Nicholas J. Rush; Jason M. Kapalka; Sukhbir S. Sidhu

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Claim 21, at Column 14, line 8, please delete "tokens." and insert therefor:
– tokens, wherein the total number of tokens in the set varies, and wherein a total value of all tokens in the set of tokens is constant. –

In Claim 35, at Column 14, line 53, please delete "the code".

In Claim 35, at Column 14, line 61, please delete "players;" and insert therefor:
-- players, wherein tokens are credited or debited to the at least one token account at each of a plurality of payout events associated with the game, each payout event having an associated payout value in tokens and an odds of occurrence, wherein for each payout event, the payout value multiplied by the odds of occurrence produces a yield per token bet, wherein a total of the yields per token bet for all payout events is greater than one, and wherein one or more payout events have a token payout value that is less than a number of tokens bet and wherein said one or more payout events have a combined odds of occurrence of greater than 50 percent;--

In Claim 35, at Column 14, line 64, please delete "tokens." and insert therefor:
-- tokens, wherein the total number of tokens in the set varies, and wherein a total value of all tokens in the set of tokens is constant. --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

TOWNSEND AND TOWNSEND AND CREW LLP
Attn. Gerald T. Gray
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

FEB 03 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DRW 07-01

Paper No. 4

IVOR R ELRIFI
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPE
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

AUG 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	
Rastelli et al.	:	
Application No. 09/715,418	:	DECISION
Filed: 16 November, 2000	:	UNDER 37 CFR 1.28(c)
Attorney's Docket No. 15966-604	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 1 June, 2001.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current filing fees due for a large entity are the basic filing fee of $710.00, the fee for independent claims in excess of three of $80.00, and the fee for 20 claims in excess of 20 of $360.00. On 27 August, 1999, $575.00 was paid. Therefore, a deficiency of **$575.00** is due. Petitioner has submitted a check in the amount of $575.00. However, petitioner is ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

Small entity status will no longer apply.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed

by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). A courtesy copy of this decision will be mailed to petitioner. All future correspondence, however, will be mailed solely to the correspondence address of record.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul E. Rauch
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael L. Goldman, Esq.
Nixon Peabody, LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of: Xingen Lei :
Application No. 09/715,477 : NOTICE
Filed: November 17, 2000 :
Attorney Docket No. 19603/4031 (CRFD-2554A) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to the Office of Publications for further processing into a patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

Brad A. Armstrong
P.O. Box 1419
Paradise CA 95967

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of
Brad Armstrong
Application No. 09/715,532
Filed: November 16, 2000
Title: 3D CONTROLLER WITH VIBRATION

DECISION ON
PETITION

This is a decision on the "Petition under Title 37 Sec. 1.182" for "Withdrawal of a Recorded Terminal Disclaimer," filed January 9, 2003, requesting that the terminal disclaimer to obviate a double patenting rejection filed in the instant application on August 8, 2001 be withdrawn.

The petition is **GRANTED**.

The terminal disclaimer filed on August 8, 2001, is hereby **WITHDRAWN**.

Petitioner states that the terminal disclaimer was filed in an effort to expedite the advancement of the instant application toward issuance. The original claim subject matter to which it was directed was later canceled. Accordingly, petitioner states, consistent with the examiner's comments in the Notice of Allowance, that the terminal disclaimer is unnecessary. The examiner has concurred with petitioner's assertion that the terminal disclaimer is unnecessary.

The application file is now being forwarded to Technology Center AU 2675 for correction of PALM and file records consistent with this decision. In addition, PALM records indicate that a 312 amendment was filed in this application on March 11, 2003 (This amendment is not currently in the application file or entered on the application jacket). Accordingly, the application file is also being forwarded to AU 2675 for matching of the amendment with the application file and appropriate consideration of the amendment by the examiner.

Telephone inquiries concerning this decision may be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory 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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MICHELLE B. LANDO
CABOT CORPORATION
BILLERICA TECHNICAL CENTER
157 CONCORD ROAD
BILLERICA, MA 01821-7001

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Hung et al. :
Application No. 09/715,634 : ON PETITION
Filed: November 17, 2000 :
Attorney Docket No. 98088CON :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 17, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 18, 2004. A Notice of Abandonment was mailed on March 25, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 22 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Patent Department
Mitsubishi Electric Research Laboratories Inc
201 Broadway
8th Floor
Cambridge MA 02139

In re Application of
Kadir A. Peker, et al.
Application No. 09/715,639
Filed: November 17, 2000
For: **ADAPTIVELY PROCESSING A VIDEO BASED ON CONTENT CHARACTERISTICS OF FRAMES IN A VIDEO**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed July 1, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed April 21, 2004. A Notice of Abandonment was mailed on June 10, 2005.

Petitioner asserts that a proper response was timely filed on July 19, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's amendment and reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on July 21, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

Mail Date: 04/20/2010

Applicant	: Robert D. Haskins	: DECISION ON REQUEST FOR
Patent Number	: 7672998	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/715,641	: OF WYETH
Filed	: 11/17/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FEB 26 2004

DANIEL HANSBURG, ESQ.
BROWN, RAYSMAN, MILLSTEIN,
FELDER & STEINER, LLP
900 THIRD AVENUE
NEW YORK, NY 10022-4728

In re Application of	:
Victor E. Shashoua.	:
Serial No.: 09/715,763	: PETITION TO MAKE SPECIAL
Filed: November 17, 2000	:
Attorney Docket No.: 6285/01	:

This is in response to applicants' petition filed November 12, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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.

Brown Raymond Millstein
Felder & Steiner
900 Third Avenue
New York, NY 10022

COPY MAILED

JAN 0 4 2005

OFFICE OF PETITIONS

In re Application
Victor Shashoua
Application No. 09/715,763
Filed: November 17, 2000
Atty Docket No. CMX-001. US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed November 24, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifteen (315) days to five hundred thirty-six (536) 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 five hundred thirty-six **(536)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 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 315 days. On November 24, 2004, applicant timely[1] submitted an application for patent term adjustment (with required fee). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant maintains that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 554 days. Specifically, applicant states that such action was mailed on July 25, 2003, 554 days after the fourteen month date.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for

[1] PALM records indicate that the Issue Fee payment was also received in the Office on November 24, 2004.

the Office's mailing of a first action under 35 U.S.C. 132 on July 25, 2003, is 554 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), January 18, 2002, and ending on the date of the mailing of the first action under 35 U.S.C. 132, July 25, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred thirty-six (536) days (554 days of Office delay reduced by 18 days for Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kenneth A. Fries for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Peter A. Barany	: DECISION ON REQUEST FOR
Patent Number	: 7586949	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/715,787	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2786** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER, CO 80201-1920

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Hunter, et al. : DECISION ON APPLICATION
Application No. 09/715,794 : FOR PATENT TERM ADJUSTMENT
Filed: November 16, 2000 :
Atty. Dkt. No.: 10990361-2 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B)" filed March 6, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct patent term adjustment (PTA) at the time of the allowance is 1,261 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 1,261 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed January 30, 2006, indicated that the PTA to date is 354 days. The instant application for patent term adjustment was timely filed March 6, 2006. Applicants request that the PTA be corrected from 354 days to reflect an adjustment of 1,230 days.

As acknowledged by applicants, at the time of allowance, an adjustment of 827 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office.

The Office errantly entered November 7, 2005 as the receipt date a reply to the non-final Office action mailed April 22, 2004. A reply to the non-final Office action was timely received on July 22, 2004.

In view of the timely reply to the non-final Office action, a further adjustment 434 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). The adjustment began November 23, 2004, the day after the date that is four months after the date a reply to the non-final Office action was submitted, and ended

January 30, 2006, the date the Notice of Allowance was mailed. *See* 37 CFR 1.703(a)(2).

Accordingly, at the time of allowance, the application is entitled to an adjustment of 1,261 days.

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).

Receipt is hereby acknowledged of the re required Patent Term Adjustment application fee of $200.00.

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

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. 5

DENNIS MOORE
TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474
MS 3999
DALLAS , TX 75265

COPY MAILED

SEP 7 2001

OFFICE OF PETITIONS

In re Application of
JACOBSEN, KRISTA S., *et al.*
Application No. 09/715,811
Filed: 11/17/2000
Attorney Docket No. TI-29917

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 C.F.R. §1.47(a) MOOT

This is in response to the July 30, 2001 petition under 37 C.F.R. §1.47(a).

In view of the joinder of the inventors, further consideration under 37 C.F.R. §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 C.F.R. §1.47(a).

This file is being forwarded to Technology Center 2800.

Telephone inquiries should be directed to the undersigned at 703-306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

STATTLER JOHANSEN & ADELI
P.O. BOX 51860
PALO ALTO, CA 94303

COPY MAILED

OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Gupta, Piyush	:	
Application No. 09/715,837	:	ON PETITION
Filed: November 16, 2000	:	
Attorney Docket No. LIQD.P0007X	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed January 6, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 7, 2004. A Notice of Abandonment was mailed July 13, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Effective on October 1, 2004, the large entity petition increased from $1330.00 to $1370.00. Accordingly, an additional $40.00 will be charged to petitioner's deposit account as previously authorized.

The file is now being forwarded to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/24/02 2/8/08 Paper No.: —

TO SPE OF : ART UNIT 2686

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/715839 Patent No: 6987974 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: A PTO-90 attached with consideration of WO9826621 and EPO 0738091 under IDS filed 8/3/2001 has mailed to applicant.

GEORGE ENG
SUPERVISORY PATENT EXAMINER George Eng SPE 2617 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,850	11/17/2000	Warren Adams	AMAZON.054A	8971

20995 7590 07/29/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
POND, ROBERT M	

ART UNIT	PAPER NUMBER
3625	

NOTIFICATION DATE	DELIVERY MODE
07/29/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

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David N. Weiss
KNOBBEE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: BEZOS et al.
(formerly ADAMS et al.)
Application No. 09/715,850
Filed: November 17, 2000
For: METHODS AND SYSTEMS FOR DISTRIBUTING INFORMATION WITHIN A DYNAMICALLY DEFINED COMMUNITY

CORRECTION OF ERROR IN DECLARATION FILED MAY 30, 2001

This is in response to the "Summary of Interview" filed June 19, 2008. The Summary represents a formalized request that the Supervisory Patent Examiner waive an error in the body of the original Declaration.

The Summary notes that an error was presented in the Declaration filed May 30, 2001 (re-presented together with the Summary) which caused the Declaration (appropriate for the instant application) to be routed to and filed with a different application. The Declaration intended for filing with the instant application was erroneously identified as "09/715,929" rather than as --09/715,850--.

Applicant requests that such error in such Declaration be waived by the Supervisory Patent Examiner and corrected so that the Declaration can be properly placed in the 09/715,850 application.

Upon review of the instant application and the re-presented Declaration, it is agreed that the error was one which resulted from a minor clerical oversight. All other identifying indicia (including the title, filing date, and attorney docket number) listed on the re-presented Declaration points to the disclosure of what is known in the USPTO as application 09/715,850.

As indicated in MPEP 602.03: "When an application is otherwise ready for issue, an examiner with full signatory authority may waive the following minor deficiencies: Minor deficiencies in the body of the oath or declaration where the deficiencies are self-evidently cured in the rest of the oath or declaration. In re Searles, 422 F.2d 431, 437, 164 USPQ 623, 628 (CCPA 1970).

The re-presented Declaration has been accepted for filing in the 09/715,850 application and will supersede all previously filed Declarations. The re-presented declaration has been annotated to correct the cited application number from "09/715,929" to --09/715,850--.

Telephone inquiries should be directed to Jeffrey A. Smith, Supervisory Patent Examiner, at (571) 272-6763.

Jeffrey A. Smith
SPE, AU 3625
(571) 272-6763

Attachment: Copy of annotated Declaration filed May 30, 2001

Attorney's Docket No. AMAZON.053A

#4

OIPE JC67 MAY 30 2001 PATENT & TRADEMARK OFFICE

DECLARATION - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHODS AND SYSTEMS FOR DISTRIBUTING INFORMATION WITHIN A DYNAMICALLY DEFINED COMMUNITY; the specification of which was filed on **November 17, 2000** as Application Serial No. ~~09/715,929~~ 09/715,850.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.: 60/166,547	Filing Date: November 19, 1999
Application No.: 60/166,664	Filing Date: November 19, 1999

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **Jeffrey P. Bezos**

Inventor's signature Jeffrey P. Bezos

Date May 21, 2001

Residence: Greater Seattle Area, Washington ~~2608 2nd Avenue #150, Seattle, WA 98121~~

Citizenship: **United States**

Post Office Address: **Same As Above**

JPB

Dan SPE AU 3625 7/25/08

Ready for issue

Full name of second inventor: **Warren Adams**

Inventor's signature Warren Adams

Date March 30, 2001

Residence: ~~2000 Alaskan Way #349, Seattle, WA 98121~~
38 Oyster Watch Rd; Edgartown, MA 02539

Citizenship: **United States**

Post Office Address: ~~Same As Above~~
P.O. Box 1249
Edgartown, MA 02539

Full name of third inventor: **Kenneth L. Dinovo**

Inventor's signature _____

Date 20 April '01

Residence: ~~8 Museum Way, Apt 1003, Cambridge, MA 02141~~ ~~**201 Galer Street #428, Seattle, WA 98109**~~ 10 Museum Way, Apt. 1021

Citizenship: **United States**

Post Office Address: **Same As Above**

Full name of fourth inventor: **Ryan J. Snodgrass**

Inventor's signature _____

Date 4/5/01

Residence: **602 5th Street #2003, Kirkland, WA 98033**

Citizenship: **United States**

Post Office Address: **Same As Above**

Full name of fifth inventor: **Brian Robertson**

Inventor's signature Brian Robertson

Date 20-Apr-2004 BR

Residence: ~~**1950 Alaskan Way #136, Seattle, WA 98101**~~ c/o Vitale Caturano 210 Commercial Street, Boston, MA 02109 BOR

Citizenship: **United States**

Post Office Address: **Same As Above**

Full name of sixth inventor: **Jennifer A. Jacobi**

Inventor's signature _____

Date 4/5/01

Residence: **610 N. 65th Street, Seattle, WA 98103**

Citizenship: **United States**

Post Office Address: **Same As Above**

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

H:\DOCS\ROS\ROS-2780.DOC\dns
011001

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Commissioner for Patents
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#14

MOSER IP LAW GROUP
1040 BROAD STREET - 2ND FLOOR
SHREWSBURY, NJ 07702

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DEC 20 2007

OFFICE OF PETITIONS

In re Patent No. 6,417,801 :
Issue Date: July 9, 2002 :
Application No. 09/715,860 :
Filed: November 17, 2000 :
Attorney Docket No. GLBL013 :

NOTICE

This is a notice regarding your request, filed May 15, 2007, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees paid 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).

The address on the petition differs from the address of record. 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.

Inquiries related to this communication should be directed to the Office of Petitions at (571) 272-3282.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

COPY MAILED

SEP 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Michael Bleser et al :
Application No. 09/715,872 : ON PETITION
Filed: November 15, 2000 :
Attorney Docket No. 29488/36478 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 14, 2008, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Copy of Advisory Action mailed June 1, 2009.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,872	11/15/2000	Michael Bleser	29488/36478	7661

4743 7590 06/01/2009

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

EXAMINER	
PORTER, RACHEL L	
ART UNIT	**PAPER NUMBER**
3626	

MAIL DATE	DELIVERY MODE
06/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/715,872	**Applicant(s)** BLESER ET AL.	
	Examiner RACHEL L. PORTER	**Art Unit** 3626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 May 2009 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 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *1,4,5,8-11 and 13-26*.
   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: Applicant argues the claims with the proposed amendments, which have not been entered.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/R.L.P./
Examiner, Art Unit 3626

/Robert Morgan/
Primary Examiner, Art Unit 3626

Applicant has amended claims 1 and 17 to recite : "an application server connected to the network server, the database and the intranet server to integrate the network server, the database, and the intranet server;""cause, via the intranet server, at least one prescription drug associated with the prescription order to be shipped from the one of the one or more shipping facilities;" "cause, via the intranet server, at least one prescription drug associated with the prescription order to be filled at one of the local member pharmacies ." Claim 9 has been amended to recite "causing, via an intranet server that is connected to at least a plurality of member pharmacies and one or more shipping facilities, at least one prescription drug associated with the prescription order to be filled at one of the local member pharmacies or to be shipped from the one of the one or more shipping facilities." Claim 18 has been amended to recite that specific steps are performed "when the customer selects the prescription order selection and the usemame and password are confirmed". Claim 19 has been amended to include "means for causing, via an intranet server that is connected to at least a plurality
of member pharmacies and one or more shipping facilities, at least one prescription drug associated with the prescription order to be filled at one of the local member pharmacies or to be shipped from the one of the one or more shipping facilities "

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Bleser et al	:	
Application No. 09/715,872	:	DECISION ON PETITION
Filed: November 15, 2000	:	
Attorney Docket No. 29488/36478	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2009, 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 RCE and previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed November 14, 2008, is accepted as having been unintentionally delayed.

Petitioner states that: "The attorney for Applicant contacted the Petitions Examiner and was informed that item (1) was indicted because the fee for the RCE was not paid and that a renewed petition would be granted if the RCE fee was paid". Not so, an RCE had not been submitted prior to the mailing of the decision on September 3, 2009. Item (1) was indicated because no amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. This was noted in the decision and advisory action mailed September 3, 2009. The amendment filed May 14, 2009, did not place the application in condition for allowance. Had an RCE and fee been filed with the petition on June 16, 2009, then, it would have been accepted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3626 for appropriate action by the Examiner in the normal course of business on the reply received October 19, 2009 and the previously filed amendment on May 14, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES
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Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 6

J. M. Gilbreth
Gilbreth & Associates, P.C.
P.O. Box 2428
Bellaire, TX 77402-2428

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NOV 1 6 2001

OFFICE OF PETITIONS

In re Application of
Boyce D. Burts, Jr.
Application No. 09/715,898
Filed: November 17, 2000
Attorney Docket No. 23267/19C2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight May 23, 2001.

The application file is being forwarded to the Office of Initial Patent Examination Unit for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Coram at (703) 308-6711.

Andrea Coram
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

J. M. (MARK) GILBRETH
GILBRETH AND ASSOCIATES
PO BOX 2428
BELLAIRE, TX 77402-2428

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OCT 21 2003

OFFICE OF PETITIONS

In re Application of :
Boyce D. Burts, Jr. :
Application No. 09/715,898 : ON PETITION
Filed: November 17, 2000 :
Attorney Docket No. 23267/19C2 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 10, 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 March 28, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 29, 2002.

The application file is being forwarded to Technology Center AU 1743 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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 06/02/2010

Applicant	: Warren Adams	: DECISION ON REQUEST FOR
Patent Number	: 7664669	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/715,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2451** 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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DARDI & HERBERT, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Xiangxin Bi	: DECISION ON REQUEST FOR
Patent Number	: 7575784	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/715,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **167** 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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Paper No. 8

JUNIPER NETWORKS, INC.
ATTN: ALLEN M. LO
1194 N. MATHILDA AVENUE
AUNNYVALE, CA 94089

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JUN 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Valentino Liva et al :
Application No. 09/715,992 : NOTICE
Filed: November 16, 2000 :
Attorney Docket No. JNP-0192 :

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

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COMMISSIONER FOR PATENTS
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Paper No. 14

ROBERTA P. SAXON
SKJERVEN MORRILL MACPHERSON LLP
25 METRO DRIVE, SUITE 700
SAN JOSE, CA 95110

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OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Mayer et al. :
Application No. 09/716,016 : ON PETITION
Filed: November 16, 2000 :
Attorney Docket No. M-7125-2D US :

This decision concerns the September 9, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on April 7, 2003 for failure to timely submit a proper reply to the January 6, 2003 non-final Office Action.

The instant petition encloses an "Amendment A" and a double patenting terminal disclaimer in response to the January 6, 2003 non-final Office Action; encloses the $1,300 petition fee and the $110 filing fee for the terminal disclaimer; and states that the entire delay in filing a proper reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The petition indicates a correspondence address different from that in the USPTO record for this application, and is signed by a practitioner who does not appear to have a power of attorney for prosecuting this application before the USPTO. Consequently, the "Change of Attorney's Address in Application" signed by this practitioner and enclosed with the petition is not entered. While a courtesy copy of the decision is being sent to this practitioner, all future correspondence on this application will be mailed to the current attorney-of-record, at the current correspondence address-of-record, unless the USPTO is instructed otherwise.

The application file is being forwarded to Technology Center 1700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Roger S. Sampson, Esq.
Beyer Weaver & Thomas, LLP
PO Box 778
Berkeley, CA 94704-6200

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Paper No. 19

REED & EBERLE LLP
800 MENLO AVENUE SUITE 210
MENLO PARK CA 94025

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SEP 24 2004

OFFICE OF PETITIONS

In re Application	:	
Chen et al.	:	
Application No. 09/716,029	:	DECISION ON APPLICATION
Filed: November 17, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 6200-0013	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed November 20, 2002. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) to thirty-eight (38) days.

The application for patent term adjustment is **DISMISSED**.

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.

On August 20, 2002, 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 4, 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 thirty-eight (38) days.

[1] Applicants' submission of the issue fee and the PTA were made timely by including a Certificate of Mailing under 37 C.F.R. § 1.8 dated November 20, 2002.

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 applicant delay of seventy-five (75) days pursuant to 35 U.S.C. 154(b)(1)(C)(ii) and 37 C.F.R. § 1.704(b). A non-final Office action was mailed on July 24, 2001. Applicants did not file an Amendment until January 7, 2002. The Office then mailed a Restriction Requirement on April 3, 2002.

Applicants assert entitlement to a patent term adjustment of thirty-eight (38) days on the basis that applicants timely responded to a July 24, 2001 non-final Office action with an Amendment bearing a Certificate of Mailing under 37 C.F.R. § 1.8 dated October 24, 2001. Accordingly, applicants argue that no applicant delay should have been assessed. Furthermore, applicants assert that PTO delay of 38 days should have been assessed because the Office did not respond to the October 24, 2001 Amendment until the Restriction Requirement was mailed on April 3, 2002.

> If a reply to an Office action or notice was mailed on or after October 13, 2001 and no later than December 1, 2001 (as shown on a certificate of mailing under 37 CFR 1.8), and the applicant is otherwise entitled to patent term adjustment (or additional patent term adjustment) but for the fact that there was a reduction of such patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) due to the receipt of such reply by the Office more than three business days after the date indicated on the certificate of mailing, the Office will consider the USPS mail situation discussed in this notice to constitute a sufficient showing that, in spite of all due care, the applicant was unable to reply to the Office action or notice within three months of the date of mailing of the Office action or notice. In this situation, the Office will, subject to the conditions set forth below, reinstate a period equal to the period beginning on the date that is four business days after the date indicated on the certificate of mailing on the reply and the date of receipt (37 CFR 1.6) of the reply in the Office up to a maximum of

three months.[2]

In view of the above, the amendment with the Certificate of Mailing dated October 24, 2001, will be considered to have been filed in the Office four business days later, or October 30, 2001.[3]

Accordingly, Office delay should have been assessed at thirty-four (34) days, representing the period of delay from March 1, 2002 (four months after the date the reply was filed) until April 3, 2002.

However, Applicants should have been assessed delay of eighty-five (85) days pursuant to 37 C.F.R. 1.704(c)(8) for the filing of a supplemental reply or other paper (a supplemental amendment) on August 8, 2002, when Applicants previously filed a response to the April 3, 2002 Office action on May 15, 2002.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0)** (34 days of PTO delay, reduced by 85 days of applicant delay).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Karen Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

---

[2] Processing of, and Requirements for, the Filing of Duplicate Applications and Papers in Patent Applications in view of USPS Mail Delays, 1254 Off. Gazette 92 (Jan. 15, 2002).

[3] October 27, 2001 and October 28, 2001 fell on a Saturday and Sunday, respectively.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 27, 2008

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 09716054 Patent No.: 7220552 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

✓**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**

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/21/2010

Applicant	: Wan-Chieh Pai	: DECISION ON REQUEST FOR
Patent Number	: 6801886	: RECALCULATION of PATENT
Issue Date	: 10/05/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/716,065	: OF WYETH
Filed	: 11/17/2000	:
		:

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 2008

OFFICE OF PETITIONS

DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017-5621

In re Application of :
MacPherson : DECISION ON PETITION
Application No. 09/716,189 :
Filed: November 17, 2000 :
Docket No.: DT-3788 :

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed September 19, 2007. This matter is also being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No fee has been charged in connection with this matter.

The Notice of Abandonment mailed August 15, 2007 indicated that this application was held abandoned for failure to timely submit a proper reply to the Notice of Noncompliant Amendment mailed June 22, 2007.

DECISION UNDER 37 CFR 1.181

The Notice of Noncompliant Amendment mailed June 22, 2007 required correction to drawings previously submitted by applicant. A review of the record and, further, consultation with the examiner of record on June 11, 2008 confirms that a timely response to the Notice of Noncompliant Amendment was filed June 30, 2007.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

In view of the withdrawal of the holding of abandonment, the petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

No fee is due in connection with this matter. Petitioner is entitled to a refund of the $750.00 petition fee previously submitted and may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to Group Art Unit 3692 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

Mail Date: 04/21/2010

Applicant	: James MacPherson	: DECISION ON REQUEST FOR
Patent Number	: 7636682	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/716,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1828** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

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FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Shenoy et al.	:	FOR
Application No. 09/716,332	:	PATENT TERM ADJUSTMENT
Filed: November 21, 2000	:	
Atty Docket No. 038602-1060	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed March 24, 2004. Based on a projected pate grant of July 6, 2004, applicants request entry of a period of adjustment of 228 days for 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 Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Washington, DC 20007-5109

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JAN 23 2006

OFFICE OF PETITIONS

In re Patent No. 6,878,733	:	
Shenoy et al.	:	DECISION ON REQUEST
Issue Date: April 12, 2005	:	FOR
Application No. 09/716,332	:	RECONSIDERATION OF
Filed: November 21, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. 038602-1060	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed April 27, 2005. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from two hundred ninety-five (295) days to four hundred fifteen (415) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On April 12, 2005, the above-identified application matured into U.S. Patent No. 6,878,733, with a revised Patent Term Adjustment of 295 days. The instant request for reconsideration filed April 27, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an

additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

A review of the record confirms that two hundred thirty-six (236) days were entered for Office delay in issuing the patent pursuant to § 1.702(b). Furthermore, this is the correct period of adjustment for the delay. It is noted that the instant patent issued 3 years and 508 days after its filing date. However, as stated in the decision mailed February 8, 2005, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that a total of 272 days overlapped. Thus, the additional non-overlapping period of 236 days was entered for Office delay in issuing the patent.

In view thereof, the patent term adjustment of 295 days indicated in the patent is correct.

Pursuant to the payment of fees on request for reconsideration of patent term adjustment filed March 24, 2004, and decision mailed February 8, 2005, no additional fees are required for consideration of this request for reconsideration.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,878,733	:	DECISION ON REQUEST
Shenoy et al.	:	FOR
Issue Date: April 12, 2005	:	RECONSIDERATION OF
Application No. 09/716,332	:	DECISION ON REQUEST
Filed: November 21, 2000	:	FOR RECONSIDERATION OF
Atty Docket No. 038602-1060	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed February 27, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from two hundred ninety-five (295) days to four hundred fifteen (415) days.

The request for reconsideration of the decision on request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred fifteen **(415)** days.

On April 12, 2005, the above-identified application matured into U.S. Patent No. 6,878,733, with a revised Patent Term Adjustment of 295 days. By decision mailed February 8, 2005, the application for patent term adjustment filed March 24, 2004 wad filed. By decision mailed January 23, 2006, the request for reconsideration of patent term adjustment filed April 27, 2005 was dismissed.

In response, patentees filed the instant request for reconsideration. Patentees argue that because applicants did not submit an "Amendment After Notice of Allowance (Rule 312)" on March 24, 2004, the assessment of 120 days of delay against Applicants for such a submission is improper.

First, of all, this request for reconsideration is timely filed as it was implicitly encompassed in the request for reconsideration timely filed April 27, 2005, and it was filed within two (2) months of the decision mailed January 23, 2006.

Secondly, a review of the record confirms that no amendment was filed on March 24, 2004. Rather, on that date, applicants filed a request for reconsideration of patent term adjustment. In this regard, § 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Accordingly, the reduction of 120 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred fifteen (415) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED FIFTEEN (415) 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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,878,733 B1

DATED : April 12, 2005

INVENTOR(S) : Shenoy et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (295) days

Delete the phrase "by 295" and insert – by 415 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property a
Director of the United States Patent and Trademark Off
Washington, D.C. 20:
www.us.pto.

Paper No. 17

ARMSTRONG, WESTERMAN & HATTORI
1725 K STREET, N.W.
SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hideki Mizuhara et al
Application No. 09/716,334
Filed: November 21, 2000
Attorney Docket No. 981187A

This is a decision on the petition, filed September 25, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 28, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failur to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notic and payment of any balance due will result in th abandonm nt of the application.**

#16

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Paper No. 16

STEVEN F WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of :
Fesik, et al. :
Application No. 09/716,395 : ON PETITION
Filed: November 20, 2000 :
Attorney Docket No. 6752.US.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2004, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed March 26, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 27, 2003. A Notice of Abandonment was mailed on March 24, 2004.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, 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 file is being forwarded to Group Art Unit 1642 for consideration of the amendment filed April 30, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSHA & MAY L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON TX 77010

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Gajendra P. Singh et al :
Application No. 09/716,545 : DECISION ON PETITION
Filed: November 20, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 03226.049001;P5243 :

This is a decision on the petition filed October 4, 2004, which is being treated 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 application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with items (2 and 3) above.

The petition fee for a petition under 37 CFR 1.78(a)(3) is currently $1,370.00. Also, the required statement under 37 CFR 1.78(a)(2)(ii) was not submitted.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3), addressing the above is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

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 Karen Creasy at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Gajendra P. Singh et al :
Application No. 09/716,545 : DECISION ON PETITION
Filed: November 20, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 03226.049001;P5243 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/638,338, filed August 14, 2000.

The petition is **DISMISSED** as moot.

The instant application was filed on November 20, 2000. A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. See MPEP Section 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the $1,370 fee submitted for the petition under 37 CFR 1.78(a)(3) is unnecessary. Therefore, the petition fee will be credited to deposit account no. 50-0591 as authorized.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The application is being forwarded to Technology Center Art Unit 2154 for processing the amendment filed May 9, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROSELAND NJ 07068

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OFFICE OF PETITIONS

In re Patent No. 6,862,481	:	
Baseem M. Demian	:	
Issue Date: March 1, 2005	:	DECISION ON
Application No. 09/716,567	:	PATENT TERM ADJUSTMENT
Filed: November 20, 2000	:	
Attorney Docket No. 176746-2	:	

This is a decision on the "REQUEST FOR RECONSIDERATION TO ADJUST PATENT TERM EXTENSION UNDER 37 CFR 1.705", filed March 7, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from one hundred twenty-two (122) days to two hundred forty-two (242) days.

The application for patent term adjustment is **DISMISSED**.

On March 1, 2005, the above-identified application matured into U.S. Patent No. 6,724,593. The instant request for reconsideration filed March 7, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of one hundred twenty-two (122) days. Patentee states that he should not have been assessed applicant delay of one hundred twenty (120) days for the submission of drawings after the Notice of Allowance.

The adjustment of one hundred twenty (120) days for the submission of drawings after the Notice of Allowance has been determined to be correct. Patentee argues that he should not have been assessed applicant delay in responding to a Notice of

Drawing Inconsistency because an earlier Office action stated that the drawings filed on February 26, 2003 were accepted by the Examiner. However, because the drawings filed after the Notice of Allowance were not identical to the drawings filed on February 26, 2003, it is concluded that applicant failed to engage in reasonable efforts to conclude prosecution of the application under 37 C.F.R. §1.704(c)(10).

In view thereof, the correct determination of PTA at the time of issuance is **one hundred twenty-two (122)** days (306 days of PTO delay, reduced by 184 days of applicant delay).

Patentee was charged $400 for the instant request for reconsideration of the patent term adjustment. However, only a $200 fee is required. See 37 C.F.R. §1.18(e). Accordingly, $200 has been refunded to Deposit Account No. 03-0678.

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

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

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Stephen P. Eisenberg	: DECISION ON REQUEST FOR
Patent Number	: 6794136	: RECALCULATION of PATENT
Issue Date	: 09/21/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/716,637	: OF WYETH
Filed	: 11/20/2000	:
		:

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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FISH & RICHARDSON PC
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MINNEAPOLIS MN 55440-1022

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NOV 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,149,792 :
Issue Date: December 12, 2006 :
Application No. 09/716,717 : NOTICE
Filed: November 20, 2000 :
Attorney Docket No. 11333-013001 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the April M. Wise at 571-272-1642.

/Carl Friedman/
Carl Friedman
Petition Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

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TWO INDEPENDENCE WAY PO BOX 5312
PRINCETON, NJ 08543-5312

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of
Horlander et al.
Application No. 09/716,721
Filed: November 20, 2000
Attorney Docket No. RCA 89324/PU000125

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 19, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed May 8, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 9, 2003. A Notice of Abandonment was mailed on December 18, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED

SEP 10 2009

OFFICE OF PETITIONS

In re Patent No. 6,698,993	:	
Issue Date: January 17, 2006	:	
Application No. 09/716,732	:	NOTICE
Filed: November 20, 2000	:	
Attorney Docket No.: 4271US2/NAT	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

It is noted that the present communication is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Charles B. Katz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

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 application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

This file is being returned to the Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHARLES B. KATZ
THERMO FISHER SCIENTIFIC INC.
ATTN: IP DEPARTMENT
355 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

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)
6,446,638	2002-09-10	09/716,733	2000-11-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Heidi C Horman/	Date (YYYY-MM-DD)	2007-09-27
Name	Heidi C Horman		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6446638
Issue Date: September 10,2002
Application No. 09716733
Filed: November 20,2000
Attorney Docket No. 1417/107

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 28,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6349059	2002-02-19	09716746	2000-11-20	NUM.0212US (99-AG-085)

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	/Timothy N. Trop/	Date (YYYY-MM-DD)	2010-07-20
Name	Timothy N. Trop	Registration Number	28994

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. 6349059
Issue Date: February 19,2002
Application No. 09716746
Filed: November 20,2000
Attorney Docket No. NUM.0212US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 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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Paper No. 26

TRASK BRITT PC
P O BOX 2550
SALT LAKE CITY, UT 84110-2550

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JAN 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Ahmed Nisar Khan et al :
Application No. 09/716,777 : DECISION GRANTING PETITION
Filed: November 20, 2000 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 4618US :

This is a decision on the petition, filed December 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

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

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

COPY MAILED

AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Alfred D. Ducharme, et al. :
Application No. 09/716,819 : ON PETITION
Filed: November 20, 2000 :
Attorney Docket No. C1104/7061 :

This is a decision on the petition, filed August 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2875 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

LAW OFFICE OF JOHN SCHIPPER
111 N. MARKET STREET
SUITE 808
SAN JOSE, CA 95113

In re Application of :
Vantalon et al. :
Application No. 09/716,845 :
Filed: November 16, 2000 :
Attorney Docket No. :
5542-025

COPY MAILED
AUG 2 0 2003
OFFICE OF PETITIONS

This is a decision in response to the petition under 37 CFR 1.137(b), filed on July 31, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 3, 2001. The Notice set a reply period of two (2) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). The Notice required an executed Oath/Declaration and late filing fee or oath or declaration surcharge in order to avoid abandonment.

In response to the Notice, Petitioner files the instant petition and executed oath/declaration.

The oath or declaration has been entered and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR: 09-07

Paper No: __

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SEP 2 4 2007

OFFICE OF PETITIONS

LAW OFFICES OF
STUART J. FRIEDMAN
28930 RIDGE ROAD
MT. AIRY MD 21771

In re Application of :
Vantalon, et al. : DECISION
Application No.: 09/716,845 :
Filing Date: 16 November, 2000 :
Attorney Docket No. 5442-025 :

This is a decision on the petition re-filed on 26 June, 2007, after apparently having been filed originally on 1 March, 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 **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action (copy enclosed)

[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.**

mailed on 17 March, 2005, with reply due absent extension of time on or before 17 June, 2005;

- the application went abandoned by operation of law after midnight 17 June, 2005;
- the Office mailed a Notice of Abandonment on 14 April, 2006;
- on 1 March, 2007, Petitioner originally filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the final Office action because the Office apparently failed to enter the Revocation/Power of Attorney filed (with supporting documentation including a a certificate under 37 C.F.R. §3.73(b)) on 5 January, 2005–and so the Office action and the Notice of Abandonment were mailed to the old/wrong address–and made the statements and provided documents required (see the Manual of Patent Examining Procedure provisions discussed below) in support thereof;
- on 26 June, 2007, Petitioner re-asserted the averments of his earlier (1 March, 2007) petition.

The Revocation/Power of Attorney filed on 5 January, 2005, has been accepted and entered.

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 as to any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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.

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

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(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

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

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[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 14 April, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2600 for further processing, including the re-mailing of the final Office action with a new period of reply, 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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,845	11/16/2000	Luc Vantalon	5442-025	7957

7590 03/17/2005

LAW OFFICE OF JOHN SCHIPPER
Suite 808
111 N. Market Street
San Jose, CA 95113

EXAMINER	
LEE, MICHAEL	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/716,845	VANTALON ET AL.	
	Examiner	Art Unit	
	M. Lee	2614	

-- 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 *05 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-29* 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) *22-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/5/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. 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.

2. Claims 22-25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Chao et al. (4,893,306).

Regarding claim 22, Chao discloses a digital television system, Figures 6 and 9, showing a multiplexer mechanism 36, a match framer 126, which meets the security mechanism as claimed, and a demultiplexer mechanism 39. The multiplexer mechanism includes a plurality of input FIFO storage mechanisms 67 each having FIFO readout circuitry coupled to the outputs of the input FIFO storage mechanism. The readout circuitry has a control circuitry (68, 70) for reading out stored packets (see col. 11, lines 21-42). The demultiplexer mechanism includes a plurality of output FIFO storage mechanisms 130 each having FIFO read-in circuitry coupled to the output of the match framer 126 for transferring signal packets from the different program signal transport streams to their respective ones of the output FIFO storage mechanisms.

Regarding claim 23, Chao states that the server 65 looks for newly arrived DTDM frames in the line buffers 64...sends the frames out in a...DTDM bit stream (col. 11, lines 16-20), which meets the claimed limitations as claimed.

Regarding claim 24, in addition rejection to claim 23, Chao performs the same functions as claimed when only one line buffer 64 is receiving data because the server 65 only finds data in that particular line buffer.

Regarding claim 25, the server 65 in Chao looks for newly arrived DTDM frames in the line buffers, and modifies the header field to include a line number, which meet the claimed limitation.

Regarding claim 27, in addition of above, the subsequent circuit connected to the FIFO storage mechanisms meets the utilization mechanism.

Regarding claims 28 and 29, see rejection to claim 25.

Claim Rejections - 35 USC § 103

3. 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.

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chao et al. (4,893,306) in view of Nishimura et al. (4,472,686).

Regarding claim 26, the server 65 in Chao does not specify the detector circuitry and the exclusive OR circuitry as claimed. Nishimura, from the similar field of endeavor, discloses a packet sync detector and marker showing a coincident detector 11, which meets the detector circuitry as claimed, and an exclusive OR gate 15, which meets the exclusive OR circuitry as claimed. Since the server 65 could be any conventional circuitry so long it was able to perform the header modifying function, it would have

been obvious to one of ordinary skill in the art at the time of the invention was made to include the detector and exclusive OR circuitries of Nishimura into Chao to perform the well known functions as claimed.

Claim Rejections - 35 USC § 112

5. 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.

6. Claims 23, 24 and 27 are 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.

In claims 23, 24 and 27, it is not clearly that how is the "control circuitry" differentiate from claim 22.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fallin (4,891,805) shows a plurality of FIFO memories.

Bourdonnaye (5,212,687) shows a MUX and a DEMUX.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Lee
Primary Examiner
Art Unit 2614

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov
DIM 08-01

Paper No. 4

BRUMBAUGH, GRAVES, DONOHUE & RAYMOND
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 15 2001

OFFICE OF PETITIONS

In re Application of
Hon et al.
Application No. 09/716,890
Filed: November 20, 2000
Attorney Docket No. 460-001 Continuation IV

DECISION GRANTING
PETITION

This is a decision on the petition filed on May 23, 2001, requesting that a Notice Of Incomplete Application ("Notice"), mailed on March 19, 2001 for the above-identified application, be withdrawn and that the application be accorded a filing date of November 20, 2000.

The petition is **GRANTED.**

The application was filed on November 20, 2000. However, on March 19, 2001, the Initial Patent Examination Division mailed the Notice stating that the application had not been accorded a filing date because the application as filed did not include a complete specification containing at least one claim as prescribed by 35 U.S.C. 112. As further stated in the Notice, a small entity statement was missing. The Notice erroneously indicates that drawings are needed.

In response, the petition was filed. The petition is accompanied by, *inter alia*, a copy of the original specification filed in the prior application and a copy of a signed declaration and power of attorney. Petitioners state that the present application was inadvertently filed under 37 CFR 1.53(d) and request that the application be treated as an application filed under 37 CFR 1.53(b) using the copy of the original specification supplied with the petition.

The papers deposited on November 20, 2000 included an application transmittal letter for a new application under 37 CFR 1.53(b). No request for a filing under 37 CFR 1.53(d) is found among the papers deposited on November 20, 2000. Accordingly, the USPTO treated the papers deposited on November 20, 2000 as an application under 37 CFR 1.53(b) and mailed the Notice on March 19, 2001, because the specification required by 37 CFR 1.53(b) had been omitted.

Fortunately for Petitioners, the 37 CFR 1.53(b) application transmittal letter deposited on November 20, 2000 includes a statement (see transmittal letter filed November 20, 2000, para. 16) incorporating the entire disclosure of the prior application into the present application. Thus, the insertion of the copy of the original specification filed in the prior application does not raise an issue of new matter. Accordingly, on petition, the application may be processed using the copy of the original specification filed in the prior application as the specification for the present application.

The application transmittal letter deposited on November 20, 2000 indicates reliance on the small entity statement filed in the prior application. This satisfies the requirement under 37 CFR 1.27(c)(3) for a new assertion of entitlement to small entity status in a continuation application. The March 19, 2001 Notice is therefore incorrect in advising Applicant that the small entity statement is missing.

There is no indication that the registered practitioner signing the present petition was ever given a power of attorney or authorization of agent to prosecute this application. Moreover, a correspondence address different from that in the Power of Attorney is used. If this practitioner desires to receive future correspondence regarding this application, an appropriate power of attorney or designation as well as a change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to this practitioner, all future correspondence will be directed to the address in the Power of Attorney until such time as appropriate instructions are received to the contrary.

Since the papers deposited on November 20, 2000 also omitted a signed oath/declaration, the $65.00 surcharge for submission of the signed oath/declaration after the filing date of the application is required. See 37 CFR 1.53(f) and 1.16(e). The $65.00 surcharge has been charged to deposit account No. 11-0978 as authorized in the petition.

The application is being returned to the Initial Patent Examination Division for further processing with a filing date of November 20, 2000, using the copy of the specification and declaration supplied on May 23, 2001.

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

cc: J.W. Seanor
King and Schickli
247 North Broadway
Lexington, Ky 40507

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Paper No.

Edward J. Hejlek
Senniger, Powers, Leavitt &
Roedel
16th Floor
One Metropolitan Square
St. Louis, MO 63102

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
South et al.	:	DECISION ON APPLICATION
Application No. 09/717,051	:	FOR
Filed: November 20, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. C-3204/2	:	

This is a decision on the "PETITION FOR APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed June 16, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred forty-eight (148) days to seven hundred ninety-seven (797) 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 ninety-seven (797) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 23, 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 148 days. On June 16, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants state that the patent term adjustment should be based on a period of adjustment of 829 days for Office

[1] PALM records indicate that the Issue Fee payment was also received on June 16, 2005.

delay reduced by 32 days for applicant delay. Applicants, in effect, dispute the additional reduction of 649 days for applicant delay.

Applicants state that a terminal disclaimer has not been filed in this application.

Applicants are correct. A review of the record reveals that the reduction of 649 days is not warranted. A change of correspondence address was filed on March 6, 2001. However, the original Notice to File Missing Parts of Application mailed April 27, 2001, was mailed to the pre-March 2001. Furthermore, multiple status inquiries, referencing the change of address, were filed in this application. Subsequently, on March 5, 2003, the Notice to File Missing Parts of Application was re-mailed and the period for reply reset. Further, applicants' response is of record in the application with a date of receipt by the Office of May 7, 2003. Furthermore, the response included a complete reply to the Notice. Under the circumstances of this case, the mailing date of March 5, 2003 (not April 27, 2001) should be used to assess applicant delay in responding to the Notice to File Missing Parts. As such, the response was filed within the three-month period under 37 CFR 1.704(b). 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 mailed March 5, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seven hundred ninety-seven (797) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements met.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period

during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 28 2005

LAURA A. CORUZZI
JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of Brines *et. al.*
Serial No.: 09/717,053
Filed : November 21, 2000
Attorney Docket No.: 10165-011-999

: PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed February 17, 2005, 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 a non-Final Office action to applicants on April 20, 2004, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on February 7, 2005.

Applicants state that the response to the Office Action included the following: an Amendment under 37 CFR 1.111, a Petition for a 2 month extension of time with the required fee, a Supplemental Information Disclosure Statement, List of References Cited by Applicants, Copies of References FL-FM, and an executed Revocation and New Power of Attorney, which were all mailed on September 9, 2004. Applicants provide a copy of all of the above-mentioned items and a postcard receipt for the items from the Patent and Trademark Office dated September 9, 2004. In view of the evidence presented the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

It is noted that applicant filed a Request for Continued Examination (RCE) on February 2, 2005. The RCE is improper because no Final Action on the case has been issued. In addition, the Office issued a Notice of Improper Request for Continued Examination on February 2, 2005, indicating that the RCE filed failed to include a reply. Thus, no action was taken in regards to the RCE. Accordingly, no fees were charged with respect to the RCE.

The petition is therefore **GRANTED**.

The application will be forwarded to the examiner for further action.
No fee is due for this petition and the fee of $130.00 will be refunded to applicant's deposit Account No. 50-3013.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

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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July 18, 2007

Patent No. : 6738126 B1
Ser. No. : 09/717068
Inventor(s) : Chung, et al.
Issued : May 18, 2004
Title : **METHOD OF FABRICATING LIQUID CRYSTAL PANEL BY ARRANGING HIGH VISCOSITY LIQUID CRYSTAL ONTO A SUBSTRATE**
Docket No. : 8733.329.00

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn: Office of Petitions

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE, CA 95125

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APR 01 2004

OFFICE OF PETITIONS

In re Application of
Joshi, et al.
Application No.: 09/717,161
Filed: November 20, 2000
Attorney Docket No: 50277-0380

ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed February 6, 2004.

The petition is **GRANTED.**

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be forwarded to the Office of Patent Publications to be processed into a patent.

In the interim, the application will be forwarded to the examiner assigned to the application for review of the communication filed January 26, 2004, that is an amendment under 37 CFR 1.312.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

Deposit account 50-1302 will be charged $130.00 for the petition fee.

Further correspondence regarding 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: (703) 872-6906
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. MORRISON, SAM B.
Issue Date: 11/15/05
Appl No.: 09/717,204
Filed: November 22, 2000
For: Transfer Resistant Anhydrous Cosmetic Composition

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed 11/16/06 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Sreeni Padmanabhan
Supervisory Patent Examiner
Art Unit 1617
Technology Center 1600

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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United States Patent and Trademark Office
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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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AUG 30 2005

OFFICE OF PETITIONS

In re Application of :
Josephson et al. :
Application No. 09/717,332 : ON PETITION
Filed: November 20, 2000 :
Attorney Docket No. OSU1159-074F :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed January 19, 2005. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on July 20, 2005. A Notice of Abandonment was mailed August 12, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/09/07

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/717332** Patent No.: **7155423**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2129 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080206

DATE : April 09, 2007

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction on Patent No.: 7155423

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: /David Vincent/ Art Unit 2129

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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IP STRATEGIES
12-1/2 WALL ST.
STE. I
ASHEVILLE NC 28801

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JUN 0 4 2009

OFFICE OF PETITIONS

Patent No. 6,817,866 :
Application No. 09/717,382 :
Filed: November 22, 2000 : ON PETITION
Issued: November 16, 2004 :
Attorney Docket No. FONPT06 :

This is a decision on the petition under 37 CFR 1.378(c), filed March 9, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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). This petition lacks none of the above-listed items.

However, it appears the instant petition is on the behalf of the assignee and therefore does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). 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.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on March 10, 2009. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Statement under 37 CFR 3.73(b)

cc: ANTHONY GIAMBALVO
FONAR CORPORATION
110 MARCUS DRIVE
MELVILLE, NY 11747-4292

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SEP 23 2009

OFFICE OF PETITIONS

Patent No. 6,817,866	:	
Application No. 09/717,382	:	
Filed: November 22, 2000	:	ON PETITION
Issued: November 16, 2004	:	
Attorney Docket No. FON 106	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed July 30, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued November 16, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was November 16, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : Sep. 27, 2006

Appl. No. : 09/717,426
Patent No. : 6,898,156 B2
Inventor(s) : Nakamiya et al.
Issued : May 24, 2005
For : ELECTRONIC TIMEPIECE WITH CHECKING FUNCTION AND ITS CHECKING METHOD

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 1.322.

Respecting the alleged error(s) in your request, due to a problem with efficiently and effectively locating the alleged error(s) in your request, please regard the following - in accordance with MPEP 1485 (A), the suggested manner of setting out the format for a certificate of correction should be:

"Identification of the exact point of error by reference to column and line number of the printed patent – for changes in the specification – or to a claim number and line where a claim is involved."

Therefore, being no fault of the Patent and Trademark Office, no correction(s) is/are in order here under United States Codes (U.S.C.) 254 or 255 and the Code of Federal Regulation (C.F.R.) 1.322 or 1.323).

In view of the foregoing, your request in this matter is hereby denied.

For further consideration, submit a Reconsideration Request for Certificate of Correction and an appropriate 1050-form listing column and line number of alleged error(s).

Note: This is a general hint, which may decrease the processing time of your request:
Certificate of Corrections are issued to correct errors of minor nature, i.e. typographical, spelling or grammar errors, errors not considered "critical information"; which are correctable under the provisions of 1.322a; or applicant's errors correctable under the provisions of 1.323. *If you obtain data that clearly shows the attorney/applicant is not in error, simply include supportive documentation and associated post card receipts, along with your certificate of correction or reconsideration via postal mail, not by fax. If you do not have supportive documentation that clearly shows the attorney/applicant is not in error and verifies that the PTO is in error regarding the matter in your request - then, the appropriate fee of $100.00 with your "Certificate of Correction" or "Reconsideration Certificate of Correction" - will be necessary. Without supportive documentation, depending upon the matter in your request, it is possible - that in addition, a petition with its appropriate fee of $130.00 may be necessary, or the request may be denied. Please be advised that – "identification of the exact point of error, by reference to column and line number in the printed patent", provides needed clarity to process a request; if a certificate of correction (PTOL-1050 form) is not clear and concise, its processing could possibly be in error, delayed, or denied. Please see the MPEP for further instruction and understanding.*

Stacy Powell, Sr.
For Cecelia B. Newman, Supervisor
Decisions & Certificates of
Correction Branch
(703) 308-9390 ext 120 or (703) 305-8309

Epson Research and Development Inc.
150 River Oaks Parkway, Suite 225
San Jose, CA 95134

CBN/spsr

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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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BETH READ
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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OFFICE OF PETITIONS

In re Application of	:	
McIntyre et al.	:	
Application No. 09/717,448	:	
Filed: November 20, 2000	:	DECISION ON
Title of Invention: METHOD OF	:	PETITION
SHARING IMAGES ALLOWING THIRD PARTY	:	
PRINT ORDERS VIA A WEB SITE	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above-identified application. The petition is properly treated as a petition to withdraw the holding of abandonment of the application under 37 CFR 1.181 (no fee).

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed December 2, 2004. The Notice action set a non-extendable two (2) month period for reply. No response having been received, the application became abandoned on March 3, 2005. A Notice of Abandonment was mailed August 17, 2005.

Applicant files the instant petition wherein Applicant avers that the issue fee was timely filed and received in the Office on February 23, 2005. In support of this assertion, Applicant files a copy of the PTOL-85B, Issue Fee Transmittal Form, and a copy of a postcard receipt, stamped by this Office which acknowledges receipt by this Office of an Issue Fee Form for the above-identified application on February 23, 2005. Office records also reveal that an Issue Fee Form for the above-identified application was received in this Office on February 23, 2005.

A further review of Office records reveal that an attempt to charge deposit account 05-0225 the issue fee on February 24, 2005 was unsuccessful because of a lack of funds in deposit account 05-0225. As such, the application was properly held abandoned for failure to timely reply to the Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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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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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Mc Intyre et al.	:	
Application No. 09/717,448	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket Number:	:	
81884F-P	:	

This is a decision on the Petition Under 37 CFR 1.316(c) for Revival and Acceptance of Delayed Payment of Issue Fee, filed December 12, 2005. The petition is properly treated under 37 CFR 1.137(b).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 2, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 3, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Lisa Ann Neuhold et al	:	DECISION ON PETITION
Application No. 09/717,450	:	TO WITHDRAW
Filed: November 20, 2000	:	FROM RECORD
Attorney Docket No. 0630/D532US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul F. Fehlner on behalf of all attorneys of record who are associated with customer No. 32801.

All attorneys/agents associated with the Customer Number 32801 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

This matter is being referred to Technology Center AU 1632 to await applicants' reply to the non-final Office action mailed November 7, 2005.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: JOSEPH P. PIERONI
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

,NITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of :
Madison et al. : DECISION ON APPLICATION
Application No. 09/717,473 :
Filed: NOvember 20, 2000 :
Atty Docket No. 17106-044001 :
/1605 :

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)," filed June 14, 2007. Applicants request reconsideration of the patent term adjustment calculations to reasonably remove unwarranted delays and reduce the applicant delay from six hundred nineteen (619) days to five hundred fourteen (514) days for future term considerations at issuance.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days, including 169 days of Office delay and 1022 days of Applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 14, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed[1]. Applicants disagree with the period of reduction of 105 days for the filing of an Information

[1] PALM records indicate that the Issue Fee was received on June 14, 2007.

Disclosure Statement (IDS) on November 19, 2001. Applicants point out that the IDS was filed before the first Office action on the merits mailed June 4, 2002. Applicants also question the period of reduction of 26 days for the IDS filed October 9, 2002 after a Response to Letter to Comply with the Sequence Rules received on September 13, 2002. Applicants state that the delay may be 103 days, not 26 days.

A review of the record confirms that the Information Disclosure Statement (IDS) filed November 19, 2001 was filed before the first Office action on the merits. Thus, it is not considered a supplemental paper within the meaning of 37 CFR 1.704(c)(8). Moreover, it is not considered a preliminary paper within the meaning of 37 CFR 1.704(c)(6) and its' filing does not otherwise constitute a failure to engage in reasonable efforts to conclude processing or examination. Accordingly, the reduction of 105 days associated with the filing of the IDS is not warranted and has been removed.

However, the reduction of 26 days for the IDS filed October 9, 2002 is proper. A response was filed on September 13, 2002. 26 days later on October 9, 2002, applicants filed the IDS. This paper was not expressly requested by the examiner and did not include a §1.704(d) statement. 37 CFR 1.704(c)(8) defines such as a circumstance that constitutes a failure to engage in reasonable efforts to conclude processing or examination, as follows:

> 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;

Accordingly, pursuant to 37 CFR 1.704(c)(8), a reduction of 26 days was properly entered.

In addition, a review of the record reveals that further periods of reduction pursuant to 37 C.F.R. §1.704(c)(7) should have been entered. This section provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, an initial response to the Notice to File Missing Parts of Application was filed on April 23, 2001. However, by Notice to Comply mailed July 16, 2001, applicants were advised of an omission in this response. On August 6, 2001, applicants filed a substitute sequence listing to correct the error. However, by Notice to Comply mailed January 9, 2002, applicants were advised that there continued to be an omission. On January 31, 2002, applicants filed another sequence listing. However, by Notice to Comply mailed August 27, 2002, applicants were advised of an omission in the response. On September 13, 2002, applicants filed a response correcting the omission. No further Notices to Comply were mailed by the Office. Thus, the initial reply with an omission was filed on April 23, 2001 and a response fully correcting the omission was not filed until September 13, 2002.

On request for reconsideration, petitioner does not show that any of the Notices to Comply were mailed in error.

Thus, pursuant to §1.704(c)(7), a period of reduction of 508 days should have been entered (counting the number of days in the period beginning on April 24, 2001, the day after the reply having an omission was filed, and ending on September 13, 2002, the date that the reply correcting the omission was filed).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ZERO **(0)** days, including 169 days of Office delay and 1022 days of applicant delay.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication 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 if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTA Calculations for Application: 09/717473			
Application Filing Date:	11/20/2000	PTO Delay (PTO):	169
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	619
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-403		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
130	08/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		508	
129	08/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	105		
107	03/14/2007	MAIL NOTICE OF ALLOWANCE			
106	03/14/2007	MAIL EXAMINER'S AMENDMENT			
105	03/06/2007	ISSUE REVISION COMPLETED			
104	03/06/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
103	03/06/2007	DOCUMENT VERIFICATION			
102	03/06/2007	EXAMINER'S AMENDMENT COMMUNICATION			
101	03/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
100	03/05/2007	NOTICE OF ALLOWABILITY			
99	11/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	12/12/2006	DATE FORWARDED TO EXAMINER			
97	11/27/2006	RESPONSE AFTER NON-FINAL ACTION		93	92
96	11/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
95	11/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	06/22/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
93	06/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
92	05/26/2006	MAIL NON-FINAL REJECTION			
91	05/25/2006	NON-FINAL REJECTION			
90	02/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

89	03/22/2006	DATE FORWARDED TO EXAMINER			
88	03/14/2006	RESPONSE AFTER NON-FINAL ACTION		92	85
87	03/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
86	02/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	09/12/2005	MAIL NON-FINAL REJECTION			
84	09/08/2005	NON-FINAL REJECTION			
83	06/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
82	08/26/2003	REFERENCE CAPTURE ON IDS			
81	08/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	11/19/2001	REFERENCE CAPTURE ON IDS			
79	11/20/2000	REFERENCE CAPTURE ON IDS			
78	11/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	06/10/2005	REFERENCE CAPTURE ON IDS			
76	06/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	06/21/2005	DATE FORWARDED TO EXAMINER			
74	06/10/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	06/21/2005	DATE FORWARDED TO EXAMINER			
72	06/10/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	69
71	06/21/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
70	06/10/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	12/10/2004	MAIL FINAL REJECTION (PTOL - 326)			
68	12/09/2004	FINAL REJECTION			
67	09/21/2004	MISCELLANEOUS INCOMING LETTER			
66	09/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	64
65	10/04/2004	DATE FORWARDED TO EXAMINER			
64	09/21/2004	RESPONSE AFTER NON-FINAL ACTION		42	59
63	09/21/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	09/21/2004	WORKFLOW INCOMING AMENDMENT IFW			
61	07/30/2004	CHANGE IN POWER OF ATTORNEY (MAY			

		INCLUDE ASSOCIATE POA)			
60	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
59	05/10/2004	MAIL NON-FINAL REJECTION			
58	05/03/2004	NON-FINAL REJECTION			
57	02/11/2004	REFERENCE CAPTURE ON IDS			
56	02/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	03/01/2004	DATE FORWARDED TO EXAMINER			
54	02/11/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	03/01/2004	DATE FORWARDED TO EXAMINER			
52	02/11/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		77	45
51	03/01/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	02/11/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	02/11/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	02/11/2004	WORKFLOW - REQUEST FOR RCE - FINISH			
47	02/11/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	08/27/2003	WORKFLOW - SIGNATORY REVIEW - BEGIN			
45	08/26/2003	MAIL FINAL REJECTION (PTOL - 326)			
44	08/25/2003	FINAL REJECTION			
43	06/17/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
42	06/11/2003	DATE FORWARDED TO EXAMINER			
41	06/04/2003	RESPONSE AFTER NON-FINAL ACTION		92	36
40	06/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	06/04/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	05/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	12/04/2002	MAIL NON-FINAL REJECTION			
35	12/02/2002	NON-FINAL REJECTION			
34	10/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		26	31
33	10/02/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
32	09/19/2002	DATE FORWARDED TO EXAMINER			

31	09/13/2002	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
30	08/27/2002	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
29	08/26/2002	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
28	07/10/2002	DATE FORWARDED TO EXAMINER			
27	06/28/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
26	06/04/2002	MAIL RESTRICTION REQUIREMENT	135		-1
25	06/03/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
24	03/01/2002	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
23	02/08/2002	DATE FORWARDED TO EXAMINER			
22	01/31/2002	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
21	01/09/2002	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)	34		15
20	01/09/2002	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
19	11/19/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		105	15
18	10/10/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
17	08/09/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
16	08/09/2001	DATE FORWARDED TO EXAMINER			
15	08/06/2001	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
14	07/16/2001	MAIL NON-BONAFIDE RESPONSE TO SEQUENCE REQUEST			
13	07/16/2001	NON-BONAFIDE RESPONSE TO SEQUENCE REQUEST			
12	05/29/2001	PRELIMINARY AMENDMENT			
11	05/04/2001	CASE DOCKETED TO EXAMINER IN GAU			
10	04/30/2001	APPLICATION DISPATCHED FROM OIPE			
9	04/30/2001	APPLICATION IS NOW COMPLETE			
8	04/30/2001	CORRESPONDENCE ADDRESS CHANGE			
7	04/30/2001	CORRESPONDENCE ADDRESS CHANGE			
6	02/05/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	02/05/2001	CORRESPONDENCE ADDRESS CHANGE			

4	12/20/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/18/2000	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	11/20/2000	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/20/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 17, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No 09/717473 patent no7276364

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: _____

Nathaniel T. Nashed — **SPE**

1652 — **Art Unit**

#16

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
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MAY - 7 2003

HELLER EHRMAN WHITE & McAULIFFE
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

In re Application of	:
Emory Anderson et al	:
Serial No.: 09/717,478	: PETITION DECISION
Filed: November 20, 2000	:
Attorney Docket No.: 24727-813C	:

This is a decision on the petition under 37 CFR 1.181, filed January 27, 2003, requesting withdrawal of the finality of an Office action.

BACKGROUND

A review of the pertinent portion of the file history shows that the examiner mailed a first Office action to applicants on May 22, 2002, in which claims 1-15 were rejected under 35 U.S.C. 112, second paragraph as indefinite citing specific terms; claims 1, 3-4 and 8-10 were rejected under 35 U.S.C. 102(a) as anticipated by Connolly; claims 2, 5-7 and 11-12 were rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Hernicz; claims 13 and 15 were rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Senyei et al; and claim 14 was rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Hernicz and Senyei et al.

Applicants replied on August 22, 2002, by canceling claim 10, amending claims 1-9 and 11-15 and adding claims 16-30. The rejections of record were addressed and arguments for patentability were set forth.

The examiner mailed a Final Office action to applicants on November 26, 2002. The examiner rejected claim 12 under 35 U.S.C. 112, second paragraph, as indefinite for a non-specific term; claims 1, 3-4, 8-9, 16-18 and 21-26 were rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Augstein; claims 5-7, 11-12 and 29-30 were rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Augstein and further in view of Hernicz; claims 13 and 15 were rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Augstein and further in view of Senyei et al; claim 14 was rejected under 35 U.S.C. 103(a) as unpatentable over Connolly in view of Augstein and Hernicz and further in view of Senyei et al; claims 19-20 were rejected under 35 U.S.C. 103(a) over Connolly in view of Augstein. Claim 2 was indicated allowable.

Applicants replied with this petition on January 27, 2003. A further amendment after Final rejection was filed on February 19, 2003, but has not been considered by the examiner.

DISCUSSION

Applicants state that each of the rejections in the second Office action include a new reference and that the new reference was not necessitated by applicants' amendment. It is noted by applicants that the claims were amended by changing "scanning a reader head" to "moving a reader head" over a surface. Connolly, the main reference of record in the first Office action teaches scanning of a test strip by a reader head. No specific teaching is given as to whether the reader head moves or the test strip moves. In the second Office action in response to the amendment which specifically requires the reader head to move, a new reference, Augstein, was added to specifically show reading a test strip by moving the reader head.

Applicants argue that "scanning" and "moving" are terms having similar, if not the same, meaning. Applicants' arguments have been carefully considered. It is clear that scanning can be accomplished in two different manners - by moving a recording device (test strip) past a stationary reader head or by maintaining the recording device stationary and moving the reader head. The first is best exemplified by a compact disk player in which the recorded disk moves past a (relatively) stationary reader head and is scanned or a store checkout counter where the item being purchased is moved past a stationary scanning head. The other is best exemplified by a bar code reader in which the recorded device is maintained stationary and a portable reader head is moved to scan the information. As applicants' specification and original claims encompassed both types of readers within the scope of the term "scanning", the Connolly reference was sufficient to reject the claims under 35 U.S.C. 102(a). Applicants' argument in the petition that scanning over a surface includes movement of the reader head is accepted inasmuch as the term, as presented in the claims, could be interpreted to mean moving the test strip or the reader head. Thus applicants' amendment did not introduce a new limitation, but merely narrowed and more particularly defined a broad limitation.

DECISION

Applicants' petition is **GRANTED.**

The Finality of the last Office action is withdrawn. The amendment after Final rejection filed February 19, 2003, will be considered a complete reply to the Office action mailed November 26, 2002, the finality of which has been withdrawn.

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.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fish & Richardson
12390 El Camino Real
San Diego, CA 92130-2081

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,867,051 :
Issue Date: March 15, 2005 :
Application No. 09/717,478 :
Filed: November 20, 2000 :
Attorney Docket No. 24727-813C :

This is a decision on the petition filed June 9, 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**.

This matter is being referred 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

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OFFICE OF PETITIONS

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130

In re Application of
Anderson et al
Application No. 09/717,478
Filed: Nov. 20, 2000

: DECISION GRANTING PETITION

This decision is in response to Applicants' "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)" filed on May 13, 2005 requesting that the Office adjust the PTA determination at the time of the 1ssuance of the patent from 20 days to 140 days to 305 days.

Applicants' petition to correct PTA is **GRANTED.** The Office will adjust the PTA at the time of the issuance of the patent to ONE HUNDRED AND FORTY (140) days. The Office will also *sua sponte* issue a certificate of correction reflecting this decision.

Applicants argue that the Office erred in assessing a one hundred and twenty (120) day reduction for the submission of drawings under 37 CFR 1.704(c)(10). Applicants allege that the submission of the drawings were simply a request to resubmit the same drawings that Office inadvertently wrote on during the prosecution of the application. Accordingly, the applicants assert that the drawings were proper as submitted prior to reduction and the re-submission was a courtesy to the Office.

Applicant arguments as well as calculations are persuasive. The record reflects that the Office did inadvertently mark on the drawings submitted initially on August 22, 2002. Moreover, the submission of the drawings on August 23, 2004 were the exact same drawings that were submitted on August 22, 2002. Under the facts and circumstances of this application, the applicants were merely providing a courtesy to the Office and therefore did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10) by submitting such drawings.

Accordingly, the Office delay under 37 CFR 1.702(a)(1), (2), & (4) was one hundred and eighty two (182)days. Applicants' delay equaled forty-two (42) days under 37 CFR 1.704(b). Overall the proper amount of PTA is 140 (182-42=140).

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the certificate of correction.

The Office has assessed the $200.00 fee. No additional fees are required in deciding this petition matter.

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
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation
Draft Certificate of Correction

T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

DATE: 30-Apr-04

APPL. S.N.: 09/717,553

TO: EXAMINER LONEY, DONALD J

ART UNIT: 1772

FROM: Thomas, Debbie
PARALEGAL SPECIALIST

RETURN THIS MEMO TO: Case Drop-Off L
CP2-8_

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 23-Mar-04

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete, please initial, date and return this memo to me. THANK YOU.

☑ The T.D. is PROPER and has been recorded (see ¶14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see ¶ 14.24):

- ☐ The TD fee of [ ] has not been submitted nor is there any authorization in the application file for the use of a deposit account (see ¶ 14.26.07).
- ☐ The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see ¶ ¶ 14.26 & 14.26.01).
- ☐ The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see ¶ 14.27.01).
- ☐ The T.D. is directed to a particular claim(s), which is not acceptable since "the disclaimer must be for a terminal portion of the term of the entire patent to be granted" (MPEP 1490) (see ¶ ¶ 14.26 & 14.26.02).
- ☐ The person who signed the T.D.:
  - ☐ is not an attorney "of record" (see ¶ ¶ 14.29 and 14.29.01).
  - ☐ has failed to state his/her capacity to sign for the business entity (see ¶ 14.28).
  - ☐ is not recognized as an officer of the assignee (see ¶ ¶ 14.29 & possible 14.29.02).
- ☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see ¶ 14.30).
- ☐ The T.D. is not signed (see ¶ ¶ 14.26 & 14.26.03).
- ☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see ¶ 14.32).
- ☐ The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see ¶ ¶ 14.26, 14.27.02 or 14.26.05).
- ☐ The period disclaimed is incorrect or not specified (see ¶ ¶ 14.26, 14.27.02 or 14.26.03).
- ☐ Other: [ ]
- ☐ Suggestion to request refund (see ¶ 14.36). NOTE: If already authorized, credit refund to deposit account and **do not** check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: DJL Date: 4/30/04 Log Date:

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Paper No. 13

Woodcock Washburn
One Liberty Place – 46th Floor
Philadelphia, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Steven J. Kruy et al. :
Application No. 09/717,645 : ON PETITION
Filed: November 21, 2000 :
Attorney Docket No. MSFT-0558/140709.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed March 18, 2003, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the above-identified application became abandoned on June 19, 2003.

The application file is being forwarded to Technology Center 2171 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-13-05

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6903969

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

The Office fails to print all references cited on PTO-1449

SPE

2827
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. 6

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JAN 14 2002

OFFICE OF PETITIONS

In re Application of :
Walter J. Kelly et al. :
Application No. 09/717,767 : ON PETITION
Filed: November 21, 2000 :
Attorney Docket No. 5709-159 :

This is in response to the petition under 37 CFR 1.47(a), filed December 27, 2001 (certificate of mailing October 22, 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), petitioner has not provided sufficient evidence that a copy of the application papers was sent or given to the non-signing inventor. Petitioner must show proof that a copy of the application papers (specification, claims and drawings) was sent or given to the non-signing inventor for review. Rule 47 applicant has failed to show or provide proof that the nonsigning inventor has refused to sign the declaration, after having been presented with a copy of the

application papers. Did inventor Christopher L. Kesh receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). While the petition indicates David D. Murray forwarded a copy of the application to Walter J. Kelly and asked if he would circulate the application for signatures, no evidence has been presented to show that a copy of the complete application papers was in fact presented to Mr. Kesh. Before a refusal can be alleged, it must be demonstrated that a copy of the application papers was presented to the nonsigning inventor. If joint inventor Kesh was not presented with a copy of the application papers, then Mr. Kesh could not attest that he has "reviewed and understands the application papers" and could not execute that declaration he was requested to sign. Therefore, unless petitioner can show that a copy of the application papers was presented to inventor Kesh, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Kesh's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc. See MPEP 409.03(d).

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of	:
Walter J. Kelly et al	:
Application No. 09/717,767	: DECISION GRANTING
Filed: November 21, 2000	:STATUS UNDER 37 CFR 1.47(a)
For: TWO PIECE OUTER BELT WEATHERSTRIP	:

This is in response to the petition under 37 CFR 1.47(a), filed April 22, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

CHRISTOPHER L. KESH
3360 PINE COURT
WEST BLOOMFIELD, MI 48324

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AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of
Walter J. Kelly; Anthony W. Loe; Christopher L. Kesh
Application No. 09/717,767
Filed: November 21, 2000
For: TWO PIECE OUTER BELT WEATHERSTRIP

Dear Mr. Kesh:

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 the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

In re Application of

George, et al.

Application No. 09/717,818

Filed: November 21, 2000

Attorney Docket No. AUS9-2000-0552-US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief mailed August 19, 2005, which set a shortened period for reply of one (1) month from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on September 20, 2005. A Notice of Abandonment was mailed on March 24, 2006.

The appeal brief filed January 25, 2007, is noted.

Deposit account 09-0447 will be charged $1500.00 for the instant petition fee.

The application is being forwarded to Technology Center 2100, GAU 2168 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Joseph Mulavelil George	: DECISION ON REQUEST FOR
Patent Number	: 7620665	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/717,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2099** 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 27

Jeffrey W. Guise
Lyon & Lyon
First Interstate World Center
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-2066

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Andrew C. Hiatt, et al :
Application No. 08/434,000 : DECISION ON PETITIONS UNDER
Filed: May 4, 1995 : 37 CFR 1.48(a) AND 1.183
Attorney Docket No. 212/127 :

This is a decision on May 18, 1999 petitions under 37 CFR 1.48(a), requesting correction of the inventorship and under 37 CFR 1.183, requesting waiver of a requirement under 37 CFR 1.48(a)(2), and on the paper of October 15, 1999 filed in support thereof, which timely responds to a September 13, 1999 Requirement for Information.

The §1.48(a) petition to correct inventorship is Granted.

The petition under 37 CFR 1.183 is Granted.

Background

The Requirement for Information:

- noted the request to add Mostov as an inventor, and
- required:
  - compliance with § 3.73(b) for written consents of assignees submitted by King's College London (the consent did not refer to an attached assignment document), and Planet Biotechnology (no assignment document was submitted), and
  - original named inventor Hiatt to execute a § 1.63 declaration in compliance with § 1.63(e) with the new inventive entity to notify Hiatt of a duty of disclosure under § 1.56 for CIP applications (which was omitted from his original § 1.63

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declaration), and to provide notice to him of the intent to add an inventor.

The response of October 15, 1999 has submitted:

- a new written consent of King's College London that refers to attached Assignment documents,
- a Declaration on behalf of Planet Biotechnology stating:
  - there is no U.S. assignment to Planet Biotechnology by Hiatt (para. 3), and
  - that Hiatt was asked to sign a Declaration in compliance with §§ 1.56 and 1.63 and refused to do so (paras. 4 and 6).

Decision on Petition Under 37 CFR 1.48(a)

In view of the submission of the written consent of King's College of London in compliance with § 3.73(b), Planet Biotechnology not apparently being an actual assignee, and the grant of the Petition under 37 CFR 1.183, *infra*, no outstanding issue exists.

The § 1.48(a) petition is Granted.

Decision on Petition Under 37 CFR 1.183

In view of the refusal of Hiatt to execute a new § 1.63 declaration appropriate for the instant CIP application with the correct inventive entity set forth, waiver of § 1.48(a)(2) and reexecution of a § 1.63 declaration by Hiatt is appropriate.

The petition under 37 CFR 1.183 is Granted.

The application is being returned to the Initial Patent Examination Division of the Office of Initial Patent Examination for further processing, including issuance of a corrected filing receipt, with the names of the four inventors as shown on the two executed declarations under 37 CFR 1.63 filed on May 18, 1999.

H. Bernstein

Hiram H. Bernstein
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects
(703) 305-9285

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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Paper No. 27

Jeffrey W. Guise
Lyon & Lyon
First Interstate World Center
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-2066

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of	:	
Andrew C. Hiatt, et al	:	
Application No. 08/434,000	:	DECISION ON PETITIONS UNDER
Filed: May 4, 1995	:	37 CFR 1.48(a) AND 1.183
Attorney Docket No. 212/127	:	

This is a decision on May 18, 1999 petitions under 37 CFR 1.48(a), requesting correction of the inventorship and under 37 CFR 1.183, requesting waiver of a requirement under 37 CFR 1.48(a)(2), and on the paper of October 15, 1999 filed in support thereof, which timely responds to a September 13, 1999 Requirement for Information.

The §1.48(a) petition to correct inventorship is Granted.

The petition under 37 CFR 1.183 is Granted.

Background

The Requirement for Information:

- noted the request to add Mostov as an inventor, and
- required:
  - compliance with § 3.73(b) for written consents of assignees submitted by King's College London (the consent did not refer to an attached assignment document), and Planet Biotechnology (no assignment document was submitted), and
  - original named inventor Hiatt to execute a § 1.63 declaration in compliance with § 1.63(e) with the new inventive entity to notify Hiatt of a duty of disclosure under § 1.56 for CIP applications (which was omitted from his original § 1.63

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declaration), and to provide notice to him of the intent to add an inventor.

The response of October 15, 1999 has submitted:

- a new written consent of King's College London that refers to attached Assignment documents,
- a Declaration on behalf of Planet Biotechnology stating:
  - there is no U.S. assignment to Planet Biotechnology by Hiatt (para. 3), and
  - that Hiatt was asked to sign a Declaration in compliance with §§ 1.56 and 1.63 and refused to do so (paras. 4 and 6).

Decision on Petition Under 37 CFR 1.48(a)

In view of the submission of the written consent of King's College of London in compliance with § 3.73(b), Planet Biotechnology not apparently being an actual assignee, and the grant of the Petition under 37 CFR 1.183, *infra*, no outstanding issue exists.

The § 1.48(a) petition is Granted.

Decision on Petition Under 37 CFR 1.183

In view of the refusal of Hiatt to execute a new § 1.63 declaration appropriate for the instant CIP application with the correct inventive entity set forth, waiver of § 1.48(a)(2) and reexecution of a § 1.63 declaration by Hiatt is appropriate.

The petition under 37 CFR 1.183 is Granted.

The application is being returned to the Initial Patent Examination Division of the Office of Initial Patent Examination for further processing, including issuance of a corrected filing receipt, with the names of the four inventors as shown on the two executed declarations under 37 CFR 1.63 filed on May 18, 1999.

Hiram H. Bernstein
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects
(703) 305-9285

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Paper No. 4

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OFFICE OF PETITIONS
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MERCHANT & GOULD
PO BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Kunin et al.
Application No. 09/717,931
Filed: November 21, 2000
Attorney Docket No. 13062.1US11

DECISION DISMISSING PETITION

This is a decision on the petition filed April 26, 2001, requesting that the requirement to submit omitted Figure 3 set forth in the Notice to File Missing Parts of Application (Notice of Missing Parts) mailed March 29, 2001, in the above-identified application be withdrawn.

On November 21, 2000, the above-identified application was filed. However, on March 29, 2001, the Office of Initial Patent Examination mailed a Notice of Missing Parts stating that the application had been accorded a filing date of November 21, 2000, and advising applicants that they must submit the statutory basic filing fee, claim fees, a signed oath/declaration and a surcharge for late filing. Additionally, the Notice indicated that Figure 3 described in the specification appeared to have been omitted.

In response, on April 26, 2001, applicants filed, inter alia, the present petition and a $130.00 petition fee. Applicants explained that the label "Figure 3" was omitted from the drawing sheet during the copying process. The petition is accompanied by a copy of one (1) sheet of drawings containing the figure originally unlabeled, which has been relabeled as Figure 3.

It is obvious from the petition that no drawings were actually missing on November 21, 2000. Rather, the drawing of Figure 3, was simply unlabeled as a result of applicants' filing error. However, the Notice of Missing Parts mailed on March 29, 2001, was correct in stating that Figure 3 described in the specification appeared to have been omitted. Therefore, the requirement to submit omitted Figure 3 set forth in the Notice of Missing Parts was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

A preliminary amendment adding the label "FIG. 3" to the unlabeled drawing figure should be filed prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 21, 2000, using the five (5) sheets of drawings filed on that date.

Any inquiries related to this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CTT

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

RICHARD GREGSON
MERCHANT & GOULD, P.C.
3200 IDS CENTER
MINNEAPOLIS, MN 55402-2215

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
David Kunin et al. :
Application No. 09/717,931 : DECISION ON REQUEST TO
Filed: November 21, 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 of the attorneys of record are granted the request for withdraw of attorney/agent.
All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: David Kunin
eCable LLC
3939 E. 46th Street
Minneapolis, MN 55406

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)
6665955	2003-12-23	09717944	2000-11-21	13900.00006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrew S. Langsam/	Date (YYYY-MM-DD)	2008-06-18
Name	Andrew S. Langsam	Registration Number	28556

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. 6665955
Issue Date: December 23,2003
Application No. 09717944
Filed: November 21,2000
Attorney Docket No. 11687/1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 18,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 18,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Foley and Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
Tanaka
Application No. 09/718,098
Filed: November 22, 2000
Attorney Docket No. 081356-0155

: DECISION GRANTING PETITION

This decision is in response to applicant's "PETITION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(b)" timely[1] filed January 07, 2005. Applicants' request that the patent term adjustment at the time of the notice of allowance be adjusted to reflect 124 days.

The application for patent term adjustment is **GRANTED**. The Office will remove the sixty day reduction that has been improperly assessed against applicant. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of one hundred and twenty-four (124) days rather than the Office determined 64 days.

Applicants assert that the Office erred in assessing a sixty (60) day reduction for the response to the notice to file missing parts. Applicants assert that the response to the notice to file missing parts was filed on July 19, 2001was filed within four[2] months of the Office notice and therefore should not be a reduction under the rules

A review of the file history reflects that applicant did respond to the Notice to File Missing Parts within the allotted time under 37 CFR 1.704(b). The Office mailed the notice on April 19, 2001 requiring an oath, fees, and sequence compliance under 37 CFR 1.821-1.825. Applicant completely responded on July 19, 2001 within with the three months time period under 37 CFR

[1]The issue fee was paid on the same date as the filing of the application for patent term adjustment.

[2]Note that applicants assert that the applicant did not delay because the response was filed within four months. However it is noted that applicants do not have four months to reply to the office action etc, but rather have three months. See 37 CFR 1.704(b). However, it is of no consequence in this matter because

1.704(b).[3] Accordingly, the sixty day reduction is an error and the proper amount of PTA at the time of the mailing of the notice of allowance is one hundred and twenty-four (124) days as suggested by applicant.

After the mailing of this Office action, the file will be forwarded to the Office of Patent Publication for a prompt issuance of the patent. Any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicant.

The $200.00 application fee has been charged for this petition. No additional fees are required;

Any questions directed to this application should be directed to Kery A, Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner for Patent
Examination Policy

cc: Copy of Adjusted PAIR calculation

[3]Note that applicants are given three months to reply without reduction to earned PTA regardless of whether a shortened statutory period is set in the Office notice.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Foley and Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
Tanaka
Application No. 09/718,098
Filed: November 22, 2000
Attorney Docket No. 081356-0155

: DECISION GRANTING PETITION

This decision is in response to applicant's "PETITION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(b)" timely[1] filed January 07, 2005. Applicants' request that the patent term adjustment at the time of the notice of allowance be adjusted to reflect 124 days.

The application for patent term adjustment is **GRANTED**. The Office will remove the sixty day reduction that has been improperly assessed against applicant. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of one hundred and twenty-four (124) days rather than the Office determined 64 days.

Applicants assert that the Office erred in assessing a sixty (60) day reduction for the response to the notice to file missing parts. Applicants assert that the response to the notice to file missing parts was filed on July 19, 2001 was filed within four[2] months of the Office notice and therefore should not be a reduction under the rules

A review of the file history reflects that applicant did respond to the Notice to File Missing Parts within the allotted time under 37 CFR 1.704(b). The Office mailed the notice on April 19, 2001 requiring an oath, fees, and sequence compliance under 37 CFR 1.821-1.825. Applicant completely responded on July 19, 2001 within with the three months time period under 37 CFR

[1]The issue fee was paid on the same date as the filing of the application for patent term adjustment.

[2]Note that applicants assert that the applicant did not delay because the response was filed within four months. However it is noted that applicants do not have four months to reply to the office action etc, but rather have three months. See 37 CFR 1.704(b). However, it is of no consequence in this matter because

1.704(b).[3] Accordingly, the sixty day reduction is an error and the proper amount of PTA at the time of the mailing of the notice of allowance is one hundred and twenty-four (124) days as suggested by applicant.

After the mailing of this Office action, the file will be forwarded to the Office of Patent Publication for a prompt issuance of the patent. Any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicant.

The $200.00 application fee has been charged for this petition. No additional fees are required;

Any questions directed to this application should be directed to Kery A, Fries, Senior Legal Advisor, at 571-272-7757.

/Kery Afe

Kery Friesr
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation

[3]Note that applicants are given three months to reply without reduction to earned PTA regardless of whether a shortened statutory period is set in the Office notice.

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

CHRISTIE PARKER & HALE
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

AUG 17 2001

OFFICE OF PETITIONS

In re Application of :
Christopher L. Hoogenboom et al :
Application No. 09/718,150 : ON PETITION
Filed: November 20, 2000 :
Atty Dkt No. 40600/JEJ/X2/134001 :
:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 13, 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2) above, the declaration and power of attorney submitted with the petition is not compliance under 37 CFR 1.63 and 1.64. The declaration fails to set forth the mailing address of all the inventors. Therefore, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a); MPEP 602 and MPEP 605.03. In addition, note 37 CFR 1.76.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to 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, D.C. 20231
www.uspto.gov

Paper No. 10

CHRISTIE PARKER & HALE
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

SEP 1 4 2001

OFFICE OF PETITIONS

In re Application of
Mike Wilson et al
Application No. 09/718,150
Filed: November 20, 2000
For: FLOW INTEGRITY FOR PATH TRANSITIONING DATA SWITCH

: DECISION GRANTING
: STATUS UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of the petition under 37 CFR 1.47(a), filed September 4, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The declaration received on July 2, 2001 does not include the residence and Post Office address of all the inventors. However, the declaration received on September 4, 2001 does include the mailing address of all the inventors but is not signed. Accordingly, the declarations taken together are considered to comply with provisions of 37 CFR 1.63 and 1.64.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2661 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

Julie H. Richardson
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh NC 27627

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MAY 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kalinowski, et al.
Application No. 09/718,222
Filed: November 20, 2000
Attorney Docket No. 5218-84
For: METHODS AND DEVICES FOR ENHANCING FLUENCY IN PERSONS WHO STUTTER EMPLOYING VISUAL SPEECH GESTURES

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed May 19, 2003 (certificate of mailing date May 15, 2003), to change the order of inventorship.

The petition is GRANTED.

The first named inventor is now Joseph Kalinowski. A replacement filing receipt is enclosed.

The file is being forwarded to Technology Center 2600 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 Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of :
Frank A. Cardenas :
Application No. 09/718,283 : ON PETITION
Filed: November 24, 2000 :
Attorney Docket No. 4172P2241 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 1, 2004, which set a shortened statutory period for reply of three (3) months. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 2, 2005.

Telephone inquiries concerning this decision should be directed to Mark Ragland at (571) 272-3295.

This matter is being referred to the Technology Center 3600, Group Art Unit 3625 for further processing.

Mark Ragland
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Irvin Dingle
Petitions Examiner

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 19 2009

TO SPE OF : ART UNIT 2682
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/718316 / 6748234

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

Please do not send file to Warehouse 2.

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: _____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090515

DATE : May 15, 2009

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction on Patent No.: 6,748,234

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:

Application issued with specification and claims as submitted/amended. Changes in the claims or deletion from the specification would be a change to the scope of the claims and potential new matter to specification. Appropriate course of action would be reissue practice.

/Dwayne Bost/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Issued :June 8, 2004
Date Mailed : May 20, 2009
Serial No. : 09/718316
Patent No. :6,748,234 B1
Inventor(s) :Avneesh Agrawal, et al.
Title :METHOD AND APPARATUS FOR POWER CONTROL IN A WIRELESS COMMUNICATION SYSTEM

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.

Application issued with specification and claims as submitted /amended. Changes in the claims or deletion from the specification would be a change to the scope of the claims and potential new matter to specification.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
FAX 571-270-9942

Qualcomm Incorporated
5775 Morehouse Dr.
San Diego, CA 92121

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Paper No. 6

APPLIED MATERIALS, INC.
PATENT DEPARTMENT
P.O. BOX 450A
SANTA CLARA, CA 95052

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JAN 16 2002

OFFICE OF PETITIONS

In re Application of :
Yuen et al. : DECISION GRANTING
Application No. 09/718,319 : PETITION
Filed: 21 November, 20010 :
Att'y Dkt No. 4704/USA/ETCH/SILICON :

This is a decision on the petition filed on 31 December, 2001, under 37 CFR 1.10(c)) requesting that the above-identified application be accorded a filing date of 21 November, 2000, rather than the presently accorded filing date of 22 November, 2000.

Petitioner alleges that the application was deposited in Express Mail service on 21 November, 2001. In support, the petition is accompanied by a copy of Express Mail Label No. EL356915802US (the same Express Mail number found on the transmittal letter accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label is illegible, the Express Mail label also contains a USPS postmark dated November 21, 2000. Furthermore, a search of the USPTO's USPS Express Mail Information Database reveals that this Express Mail Label No. was accepted by the USPS on 21 November, 2000.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 21 November, 2001, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 6/15/05

In re application of	:	
Hanns Klotz et al.	:	DECISION ON
Serial No. 09/718,369	:	PETITION
Filed: November 24, 2000	:	
For: Process And Apparatus For The Continuous Refining Of Litharge	:	

This is a decision on the petition filed on January 13, 2005. The petition requests to remail the Office Action of August 4, 2004 and restart the response period.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee).

A review of the application record indicates that a change of address was filed on January 16, 2003. The Office Action of December 1, 2004 was not sent to the new address of record.

The petition is **GRANTED.**

The office action will be resent and the time period for reply restarted.

William Krynski,
Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Jeff B. Vockrodt
Hunton & Williams LLP
Intellectual Property Department
1900 K Street, N.W.
Washington, DC 20006-1109

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

APR 07 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Foley and Lardner
Suite 500
3000 K Street, N.W.
Washington, DC 20007

In re application of:
Yuichi Kusumoto
Application No. 09/718,378
Filed: November 24, 2000
For: SYSTEM AND METHOD OF A VOIDING CELL DISPOSAL IN BUFFER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on February 22, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 22428 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-1986

cc: Mr. Paul Harrity
Harrity & Snyder
11240 Waples Mill Road, Suite 300
Fairfax, VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

JAN 0 7 2005

Technology Center 2100

Matthew L. Schneider
Burns, Doane, Swecker & Mathis LLP
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of: Engstrom, et al.
Application No. 09/718,385
Attorney Docket No. 024944-123
Filed: November 24, 2000
For: SYSTEM AND METHOD FOR PROVIDING INFORMATION REGARDING MOUNTING, DISMOUNTING AND SERVICING A BEARING OR A SEAL

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed October 6, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. The instant application was effectively held abandoned for failure to timely pay the issue fee due in response to the Notice of Allowance and Fee(s) Due (PTOL-85) mailed March 18, 2004. The three-month statutory period for response expired on June 18, 2004. A notice of abandonment has not yet been mailed.

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance and Fee(s) Due was not received and that a search of the file jacket and docket records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **withdraw the holding of abandonment**, before redating and remailing the Notice of Allowance and Issue Fees Due to the applicant.

1/3/05

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

SEP 13 2001

#5

ARMSTRONG, WESTERMAN, HATTORI,
MCLELAND & NAUGHTON, LLP
1725 K STREET, NW, SUITE 1000
WASHINGTON , DC 20006

In re Application of	:
Nobutaka Yamamoto et al	:
Serial No.: 09/718,388	: PETITION DECISION
Filed: November 24, 2000	:
Attorney Docket No.: 001554	:

This is in response to the Petition under 37 CFR 1.59, filed August 3, 2001, to expunge am IDS statement submitted by applicants.

Applicants state that on May 21, 2001, an Information Disclosure Statement was filed in the Office in error. Applicants state that the material submitted was for educational purposes (of the attorney?) and not intended for submission with an IDS and request return of the material.

A review of the submitted material has been made by the examiner and examiner's supervisor who have indicated that the material submitted may be material to the determination of patentability of the claimed subject matter of the application. In view of this determination, the material (which can also be of educational value to the examiner) will not be returned. It is further noted that the material, when submitted, was not identified as proprietary material and was not submitted in a sealed envelope as required by M.P.E.P. 724.05.

Applicants' petition is **DENIED** for the reasons set forth above.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

COPY MAILED

SEP 1 3 2001

OFFICE OF PETITIONS

In re Application of :
Renford Heaysman :
Application No. 09/718,498 : DECISION REFUSING STATUS
Filed: November 24, 2000 : UNDER 37 C.F.R. 1.47(b)
Attorney Docket No. 367.39322X00 :
Title: RADIOTELEPHONE HANDSET :

This is in response to the petition, filed August 6, 2001, under 37 C.F.R. 1.47(b).

The petition under 37 C.F.R. 1.47(b) 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. 1.136(a).

The above-identified application was filed on November 24, 2000, without an executed oath or declaration and identifying Renford Heaysman as sole inventor. Accordingly, on April 6, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. 1.63, and a surcharge for its late filing. This Notice set a two-month period for reply, to June 6, 2001.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, a two-month extension of time was purchased by petitioner. Accompanying the petition were a declaration signed by the assignee, Nokia Mobil Phones Limited, and a declaration of facts by Motohiro Kasahara, describing the efforts made to locate inventor Heaysman.

A grantable petition under 37 C.F.R. 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of

irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), the declaration is not acceptable because it does not comply with 37 C.F.R. 1.63(a)(3). The declaration submitted does not identify the citizenship of inventor Heaysman. On renewed petition, applicant must submit a declaration in compliance with 37 C.F.R. 1.63.

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 Cliff Congo at (703) 305-0272.

Christina Y. Tartera for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

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DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of :
Renford Heaysman :
Application No. 09/718,498 :
Filed: November 24, 2000 :
Attorney Docket No. 367.39322X00 :
Title: RADIOTELEPHONE HANDSET :

RENEWED
DECISION GRANTING STATUS
UNDER 37 C.F.R. 1.47(b)

This is in response to the renewed petition under 37 C.F.R. 1.47(b), filed August 6, 2001.

The petition under 37 C.F.R. 1.47(b) is **GRANTED**.

The above-identified application was filed on November 24, 2000, without an executed oath or declaration and identifying Renford Heaysman as sole inventor. Accordingly, on April 6, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. 1.63, and a surcharge for its late filing. This Notice set a two-month period for reply, to June 6, 2001. In reply, applicant filed a petition under 37 C.F.R. 1.47(b) on August 6, 2001. This petition was dismissed in a decision mailed on September 13, 2001. Because the declaration submitted with the August 6th petition did not include the citizenship of the non-signing sole inventor, it did not comply with 37 C.F.R. 1.63(a)(3).

On renewed petition, applicant has submitted a declaration in compliance with 37 C.F.R. 1.63.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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RENFORD HEAYSMAN
407 SUNRISE KITAKOSHIGAYA
OSAWA 3-22-18 KOSHIGAYA-SHI
SAITAMA-KEN
JAPAN

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of :
Renford Heaysman :
Application No. 09/718,498 :
Filed: November 24, 2000 : LETTER
Title: RADIOTELEPHONE HANDSET :

Dear Mr. Heaysman:

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 the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 (703) 305-0272. 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).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Carl I. Brundidge
Antonelli, Terry, Stout & Kraus, LLP
Suite 1800
1300 North Seventeenth Street
Arlington, Virginia 22209

UNITED STATES 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

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5901

COPY MAILED

OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Gary W. Tripp, et al. :
Application No. 09/718,526 :
Filed: November 21, 2000 :
Attorney Docket No. 1770-13-3 :

ON PETITION

This is a decision on the petition, filed August 5, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael S. Smith appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Smith desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed March 13, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on December 3, 2003. On August 5, 2004, an amendment and the present petition were filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 2154 for consideration of the amendment filed August 5, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Michael S. Smith
Black Lowe & Graham, PLLC
701 Fifth Avenue, Suite 4800
Seattle, WA 98104

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **7/15/09**

TO SPE OF : ART UNIT **2455 (2400)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/718,583** Patent No.: **7,093,019**

Attn: Michael Won

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____

_____

_____

_____

/Saleh Najjar/
SPE **Art Unit 2455**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/06

TO SPE OF : ART UNIT ~~1653~~ 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 09/718591 6753408

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Changes are O.K.
– D. Lukton

~~Cecilia J. Tsang~~
Supervisory Patent Examiner
~~Technology Center 1600~~

Cecilia Tsang
SPE **Art Unit**

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Alexandria, VA 22313-1450
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DEC 29 2009

OFFICE OF PETITIONS

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

In re Patent No. 7,349,975 :
Issue Date: March 25, 2008 :
Application No. 09/718,595 : NOTICE
Filed: November 21, 2000 :
Attorney Docket No. 007287.00009 :

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**.

It is noted that the petitioner's itemized statement makes reference to the payment of the basic statutory filing fee but a review of the record shows that the payment is for the deficiency in the issue fee and the petition is granted on that basis.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AMGEN INC
M/S 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320

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APR 16 2008

In re Application of
William J. Boyle, et al.
Application No. 09/718,725
Filed: November 22, 2000
Attorney Docket No. A-378CIP2C3

ON PETITION

This is a decision in response to the petition, filed December 19, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 17, 2006. A Notice of Abandonment was mailed on May 15, 2007. In response, on November 15, 2007, the present petition was filed.

It is noted that 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1647 for consideration of the amendment filed November 15, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: U.S. PATENT OPRATIONS/RBW
DEPT. 4300, M/S 28-2-C
AMGEN INC
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799, USA

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

AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

Mail Date: 06/21/2010

Applicant	: William J. Boyle	: DECISION ON REQUEST FOR
Patent Number	: 7632922	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/718,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1490** 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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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

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MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of :
Lappegard, et al. :
Application No. 09/718,754 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. 1189 :
For: SEED-PREFERRED REGULATORY ELEMENTS AND USES THEROF

This is a decision on the petition under 37 CFR 1.137(b), filed on March 10, 2006 to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed May 6, 2005, which set an extendable three month period for reply. Applicants submitted a three month extension of time and an amendment on November 4, 2005. The amendment failed to place the application in prima facie condition for allowance. Accordingly, this application became abandoned on November 7, 2005. A Notice of Abandonment was mailed on December 29, 2005.

Applicants have submitted a RCE and required fee and amendment in reply to the May 6, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 6, 2005 final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1638 for consideration of the RCE and amendment filed on March 10, 2006.

[1] Regarding fees, the large entity Rule 137(b) petition fee is $1,500.00. Petitioner has been charged $500.00. The $1,000.00 balance will be charged to deposit account no. 16-1852.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/06

Paper No.: —

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/918754 Patent No.: 7122658 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1638
Art Unit

Attorney Docket No. ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number : 7,122,658 B1

Issued : October 17, 2006

Name of Patentee : Pioneer Hi-Bred International, Inc.

Title of Invention : Seed-Preferred Regulatory Elements and Uses Thereof

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please enter SB 1/24/07

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR 1.322(a))

1. Attached, in duplicate, is Form PTO/SB/44, with at least one copy being suitable for printing.

2. The exact page and line number where the errors are shown correctly in the application file are:

   An Amendment, Petition and Fee Deleting Correctly Named Person(s) Who Are Not Inventor(s) of Invention Now Being Claimed was filed on April 30, 2002, deleting William J. Gordon-Kamm, Keith S. Lowe, and Jinrui Shi.

   In the issued patent Title Page, Item 75, Inventors should read: "Kathryn K. Lappegard, Nevada, IA (US); Shane E. Abbitt, Ankeny, IA (US); Susan J. Martino-Catt, Grimes, IA (US)"

   A copy of the Amendment and Petition is attached for the convenience of the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Dunlay et al. :
Application No. 09/718,770 : ON APPLICATION FOR
Filed: November 22, 2000 : PATENT TERM ADJUSTMENT
Atty Docket No. 97, 022-F3 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed February 3, 2009. Applicants request that the patent term adjustment be increased by 667 days from one thousand three hundred forty-four (1,344) days to two thousand eleven (2,011) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1].

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** 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). (This is true even where as here a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

[1] Applicants note that a request for continued examination (RCE) was filed on September 6, 2009, three years and 1019 days after the filing date.

Applicants 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. 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.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on September 6, 2006.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains one thousand three hundred forty-four (1,344) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MCDONNELL BOEHNEN HULBERT
& BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,565,247	:	DECISION ON REQUEST
Dunlay et al.	:	FOR
Issue Date: July 21, 2009	:	RECONSIDERATION OF
Application No. 09/718,770	:	PATENT TERM ADJUSTMENT
Filed: November 22, 2000	:	and
Atty Docket No. 97, 022-F3	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **two thousand and fifty-nine (2059)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **two thousand and fifty-eight (2058)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 23, 2003 and ends on September 5, 2006, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 1018 not 1019 days. Considering the 352 (313 + 39) days of overlap, the patent term adjustment is now increased by 666 days to 2058 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on February 3, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand and fifty-eight (2058)** 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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,565,247 B2

DATED : **July 21, 2009** **DRAFT**

INVENTOR(S) : Dunlay 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 1392 days

Delete the phrase "by 1392 days" and insert – by 2058 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SCHWABE WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey G. Ort et al :
Application No. 09/718,868 : NOTICE
Filed: November 20, 2000 :
Attorney Docket No. 112076-138352 :

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 matter is being referred to Technology Center AU 2672.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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APR 2 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,786,335 :
Issue Date: September 7, 2004 :
Application No. 09/718,894 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. GR 98 P 8561 :

This is a decision on the petition filed September 20, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229. 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.

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

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75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Scott H. Schwartz et al :
Application No. 09/718,961 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. HILL-0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit drawings on or before May 22, 2006 in reply to the Notice of Allowability, mailed February 22, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 23, 2006. A Notice of Abandonment was mailed on July 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of February 22, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAIL

JUL 0 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

In re Application of:
Lih-Feng Tsaur
Serial No.: 09/718,985
Filed: November 22, 2000
For: **ZERO-OVERHEAD SYMBOL RATE ADAPTATION SYSTEM FOR OVSF CODE**

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Allowance and Issue Fee(s) Due communication was mailed on November 5, 2004 setting a shortened statutory period of 3 months for filing the issue fee. A response (i.e., payment of the issue fee) to the outstanding Notice of Allowance and Issue Fee(s) Due has not been received. A Notice of Abandonment was mailed April 8, 2005.

A review of the file record reveals that a revocation of power of attorney request was filed on October 22, 2004 along with a change of address request and a 3.73(b) submission. Further review of the record reveals that the revocation request and change of correspondence address was not processed prior to the mailing of the Notice of Allowance and Issue Fee(s) Due and that the Notice of Allowance and Issue Fee(s) Due was mailed to an incorrect address.

Accordingly, although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn and the Notice of Allowance and Issue Fee(s) Due mailed November 5, 2004 is hereby vacated.

The application is being forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee(s) Due. Given that applicants did not receive the Notice of Allowance and Issue Fee(s) Due, it is presumed that the also did not receive a copy of the Notice of Allowability and Examiner's Amendment. Copies will be attached to the new Notice of Allowance and Issue Fee(s) Due communication. The time period for payment of the issue fee will be reset to run three months from the mailing of the new Notice.

Any inconvenience to the applicant is regretted.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/19/06

Paper No.: —

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/718991 Patent No.: 7068396B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: In accordance with applicant's request, at column 22, line 41, "16" should be changed to --18--; and at column 22, line 49, "16" should be changed to --20--.

SPE

2625
Art Unit

#4

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12 AUG 2003

Roger D. Emerson
The Goodyear Tire & Rubber Company
c/o Robert W. Brown, Esq.
1144 East Market Street
Department 823
Akron, OH 44316-0001

In re Application of VARGO et al. Serial No.: 09/719,023 PCT No.: PCT/US98/00169 Int. Filing Date: 01 June 1998 Priority Date: None Attorney's Docket No.: DN1998125US For: HYBRID LINERS HAVING REDUCED ADHESION TO AN UNVULCANIZED RUBBER MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 April 2001 in the above-captioned application is hereby **GRANTED** as follows:

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).

A review of the application file reveals that the basic national fee of $860 has been paid. The required petition fee of $1240 has also been paid. Thus, 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 United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements (PCT/DO/EO/905) and a Notification of Defective Oath or Declaration (Form PCT/DO/EO/916). The declaration submitted on 13 April 2001 is defective in that it does not identify the specification to which it is directed and thus, does not meet the requirements of 37 CFR 1.497. Also the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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Commissioner for Patents
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Alexandria, VA 22313-1450
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#7

Steinberg & Raskin, PC
1140 Avenue of the Americas, 15th Floor
New York, NY 10036-5803

In re Application of	:	
RAHKOMAA	:	DECISION
Application No.: 09/719,029	:	
Filing Date: December 05, 2000	:	
Attorney's Docket No.: 990.1246	:	
For: EQUIPMENT AND METHOD IN A PAPER OR BOARD MACHINE FOR MIXING OF FRESH STOCK AND OF WATER FOR DILUTION OF FRESH STOCK	:	

This is in response to the applicant's "Request for Correction to Record, filed February 25, 2005.

BACKGROUND

On 27 May 1999, applicant filed international application PCT/FR99/00458, which claimed priority of an earlier Finnish application filed 05 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 October 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2000.

On 05 December 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 unexecuted declaration; and the surcharge for submitting the oath or declaration later than 30 months. Additionally, the papers were accompanied by a letter entitled "SUBMISSION OF APPLICATION FOR FILING DATE WITHOUT DECLARATION." The letter stated the following: In accordance with 37 CFR 1.53(a)-(b), applicant submits herewith for assignment of a serial number and filing date the following:"

On 08 January 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating an oath or declaration was required. The Notification set a two-month period for reply.

On May 30, 2002, the United States Designated/Elected Office mailed a Notification of Abandonment indicating that the application was abandoned because applicant had failed to respond to the Notification of Missing Requirements.

On 10 July 2002, applicant filed an executed declaration.

On 26 August 2002, the United States Designated/Elected Office mailed a Notice of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/905) and a Withdrawal of Previously Sent Notice indicating the Notice mailed on 30 May 2002 was sent in error and to disregard that Notice.

On 25 February 2005 filed the present request for correction of the record.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

While the transmittal letter filed on 05 December 2000 identified the application as a national stage application being filed under 35 U.S.C. 371, applicants' reference to 37 CFR 1.53(b) in the accompanying transmittal letter filed 05 December 2000 is inconsistent with and contradicts any desire expressed in any papers filed that might have been filed to enter the national stage of the PCT under 35 U.S.C. 371. Application papers submitted under 37 CFR 1.53(b) are considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 05 December 2000 were improperly accepted as a filing under 35 U.S.C. 371. Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/FI99/00458 is abandoned with respect to the United States.

Accordingly, all the forms issued by the United States Designated/Elected Office are hereby VACATED.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter,

since this application (Serial No. 09/719,029) and the international application (PCT/FI99/00458) designating the United States were copending on 05 December 2000. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/FI99/00458, filed 27 May 1999, which designated the United States and is now abandoned." Alternately, applicant may make the claim by submitting an Application Data Sheet with the continuity information completed. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP 1896.

CONCLUSION

U.S. application 09/719,029 is **NOT** the national stage application of international application PCT/FI99/00458. All the forms issued by the United States Designated/Elected Office are hereby VACATED. Applicants should amend the application either by submitting an Application Data Sheet or amending the first sentence of the specification accordingly.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being returned to the Office of Initial Patent Examining for treatment of this application as an application filed under 35 U.S.C. 111(a) with a filing date of December 05, 2000.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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WILLIAM R. EVANS
C/O LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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MAR 18 2004

OFFICE OF PETITIONS

In re Application of :
Peter J. Burns :
Application No. 09/719,058 : ON PETITION
Filed: February 7, 2001 :
Attorney Docket No. U 013043-1

This is a decision on the petition, filed March 17, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 9, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

24 JUN 2005

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

In re Application of YAMASHITA et al	:	
U.S. Application No.: 09/719,098	:	
PCT Application No.: PCT/JP00/02330	:	
Int. Filing Date: 10 April 2000	:	DECISION
Priority Date Claimed: 08 April 1999	:	
Attorney Docket No.: 920_025	:	
For: MATERIAL FOR PACKAGING CELL, BAG FOR PACKAGING CELL, AND ITS PRODUCTION METHOD	:	

This is in response to applicant's "Petition Under 37 CFR §1.182" filed 14 June 2005.

BACKGROUND

On 10 April 2000, applicant filed international application PCT/JP00/02330, which claimed priority of an earlier Japan application filed 08 April 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 19 October 2000. The twenty-month period for paying the basic national fee in the United States expired on 08 December 2000.

On 08 December 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 28 March 2001, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 14 June 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the translation of the international application filed on 08 December 2000 was defective. The petition is accompanied by an affidavit signed by the person who produced the original translation and by a corrected translation.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 28 March 2001 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 April 2000, and a date under 35 U.S.C. 371(c) of 14 June 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) and for entry of the translation filed 14 June 2005.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 8

Joseph W. Price
PRICE AND GESS
2100 S.E. Main St., Suite 250
Irvine, CA 92614

MAILED

MAY 02 2002

OFFICE OF DIRECTOR
GROUP

In re Application of:
KODA *et al.*
Application No. 09/719,134
Filed: December 07, 2000
Attorney Docket No. NAK1-BN23

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 08, 2002, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider

such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 14

YOUNG & THOMPSON
745 SOUTH 23rd STREET
SECOND FLOOR
ARLINGTON, VA 22202

COPY MAILED

MAR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Zhu, Bin	:	
Application No. 09/719,234	:	ON PETITION
Filed: December 11, 2000	:	
Attorney Docket No. 1501-1180	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 2, 2003, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on December 3, 2003. See MPEP 1215.04. A Notice of Abandonment was mailed on August 30, 2004

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

16 APR 2003

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Joseph A. Kolasch
BIRCH, STEWART, KOLASCH & BIRCH, L.L.P.
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
Eui-hwan CHO, et al. :
Application No.: 09/719,282 :
PCT No.: PCT/KR00/00328 :
Int. Filing Date: 08 April 2000 :
Priority Date: 10 April 1999 :
Attorney Docket No.: PM 275761 :
For: ANTIVIRAL PYRIMIDINEDIONE DERIVATIVES AND PROCESS FOR THE PREPARATION THEREOF :

DECISION ON PETITIONS UNDER 37 CFR 1.181 AND 37 CFR 1.137(b)

This decision is in response to the "LETTER" filed by facsimile on 11 April 2003, which is being considered as a petition under 37 CFR 1.181 for acceptance of copies of papers filed with the petition as being filed on 08 October 2002. The petition is **GRANTED** as follows:

MPEP at section 503 states, in part:

> "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."

The evidence submitted by applicants, which includes a return receipt postcard itemizing all the papers filed on 08 October 2002 in connection with U.S. application serial number 09/719,282, is sufficient to establish that a petition for Revival of an Application for patent Abandoned unintentionally was filed on 08 October 2002 along with a Declaration of the inventors and fees. A review of the Revenue Accounting and Management Database reveals that the fees submitted 08 October 2002 were posted on 11 October 2002. Accordingly, acceptance of copies of papers filed with the petition as being filed on 08 October 2002 is appropriate.

The petition to revive the present application under 37 CFR 1.137(b) filed 08 October 2002 is also **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement under 37 CFR 1.137(b)(3) at the time of filing this petition. A review of the declaration of the inventors filed with the petition reveals that it is in compliance with 37 CFR 1.497.

Applicants are hereby notified that the $1960.00 fee for extension of time (Fee code 1255) is not needed, and therefore will be refunded to Deposit Account No. 02-2448.

Applicants' claim for priority is acknowledged. The application has an international filing date of **08 April 2000** under 35 U.S.C. 363 and a date of **08 October 2002** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, a) for refund of $1960.00 (Fee code 1255) to Deposit Account No. 02-2448, and b) 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

10/11/2002 SNAJARRO 00000065 09719282
02 FC:1255 1960.00 OP

Adjustment date: 04/18/2003 GFREY1
10/11/2002 SNAJARRO 00000065 09719282
02 FC:1255 -1960.00 OP

Repln. Ref: 04/18/2003 GFREY1 0014564000
DA#:022448 Name/Number:09719282
FC: 9204 $1960.00 CR

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Norris, McLaughlin & Marcus, P.A.
825 Third Ave.
18th Floor
New York, NY 10022

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Himmelsbach et al. :
Application No. 09/719,319 : DECISION DISMISSING PETITION
Filed: June 18,1999 (Int application) :
Attorney Docket No.: Biersdorf67 :

This decision is in response to applicants' "Request for Projected Patent Term Adjustment Under 37 CFR 1.704(b))" filed March 3, 2004. Applicants request that the Office adjustment the patent term adjustment determination at the time of the mailing of the notice of allowance from zero (0) days to two hundred and six (206) days.

The applicants' request for reconsideration is **DISMISSED**.

Applicants assert that they are entitled to patent term adjustment because the Office failed to provide a notice within the meaning of 35 U.S.C. 132 within 14 months of the filing of the application as required under 37 CFR 1.702(a)(1).

Applicants comments have been considered but are not deemed persuasive because the application is not considered eligible for Patent Term Adjustment. Rather, this application is eligible for Patent Term Extensions pursuant to 37 CFR 1.701 and accordingly there is no requirement by the Office to act on the application within 14 months of the filing date of the application. For applications filed pursuant to 35 U.S.C. 371, the filing date of the application is the date of the filing of the international application. Accordingly, for applications filed pursuant to 35 U.S.C. 371, the international filing date must be on/after May 29, 2000 in order to be considered eligible for PTA. The international filing date of this application is June 18, 1999 prior to the effective date for PTA purposes.

The Office will assess the $200.00 fee to Deposit Account No. 14-1263. No additional fees are required for this decision.

After mailing of this decision, the Office will forward this decision to Office of Patent Publications for a prompt issuance of this application.

Any additional questions concerning this matter should be addressed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Karin Ferriter

Kery Fries
for

Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examination Policy

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

OCT 14 2004

Technology Center 2100

In re Application of:
Eric D. SCHNEIDER, et al.
Application No. 09/719,339
Filed: April 24, 2000
For: METHOD AND APPARATUS FOR DEALING WITH DATA CORRUPTION AND SHARED DISKS IN THE CONTEXT OF SAVING, USING AND RECOVERING DATA

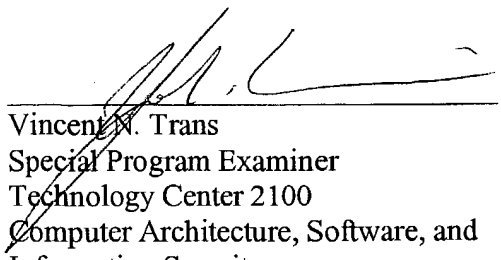
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 28, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Sonnenschiel Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE
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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Louis Moreno
EXXON MOBIL Chemical Co.
Law Technology
P.O. Box 2149
Baytown, TX 77522-2149

In re Application of	:	
Dakka et al.	:	
Application No.: 09/719375	:	DECISION ON
PCT No.: PCT/EP99/03998	:	
Int. Filing Date: 08 June 1999	:	PETITION UNDER
Priority Date: 08 June 1998	:	
Attorney Docket No.: 98M034	:	37 CFR 1.137(b)
For: Oxidation Process In The Presence Of Carbon Dioxide	:	

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 08 March 2002.

BACKGROUND

This international application was filed on 08 June 1999 and claimed an earlier priority date of 08 June 1998. The International Bureau transmitted a copy of the published international application to the USPTO on 16 December 1999. A Demand electing the United States was filed on 21 December 1999, which was prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 08 December 2000.

On 08 December 2000, applicants filed a Transmittal Letter accompanied by the basic national fee.

On 31 January 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration.

On 11 September 2001, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that the application had become abandoned with respect to the United States for failure to reply to the Notification of Missing Requirements.

Applicants filed the instant petition on 08 March 2002.

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); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was

unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition is accompanied by the required reply in the form of an executed declaration.

Regarding requirement (2), the petition is accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition to revive the application as abandoned under 35 U.S.C. 371(d) is **GRANTED** with respect to the United States.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The application has an international filing date under 35 U.S.C. 363 of 08 June 1999, and a date under 35 U.S.C. 371 of **08 March 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/07/2010

Applicant	: Jihad M. Dakka	: DECISION ON REQUEST FOR
Patent Number	: 7649100	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/719,375	: OF WYETH
Filed	: 03/08/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

ARNOLD & PORTER
Attn: IP Docketing Departement, Room 1126B
555 Twelfth Street, NW
Washington DC 20004-1206

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APR 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Burkard Goke et al.	:	
Application No. 09/719,410	:	DECISION ON PETIITON
Filed: December 12, 2000	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. 0206-UTL-9	:	
Title: GLUCAGON-LIKE PEPTIDE-1 IMPROVES BETA-CELL RESPONSE TO GLUCOSE IN SUBJECTS WITH IMPAIRED GLUCOSE TOLERANCE	:	

This is a decision on the petition filed February 14, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 30, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 1, 2005. A notice of abandonment was mailed on February 7, 2006.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be made aware of this decision.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries

---

2 See 37 CFR 10.18(b); cf. 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).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Laurie L. Hill
Amylin Pharmaceuticals
9360 Towne Center Dr.
San Diego, CA 92121

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AUG 15 2003

OFFICE OF PETITIONS

PILLSBURY WINTHROP LLP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

In re Application of
Symonds
Application No. 09/719,416
Filed: December 12, 2000
Attorney Docket No.: PM275379

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 2, 2002 for failure to timely file a proper response to the Office communication mailed July 1, 2002. The Office communication set a thirty (30) day or one (1) month (whichever is longer) period of time for response. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed April 4, 2003.

The correspondence address contained in the instant petition differs from the correspondence address currently of record in this application. Hence, if petitioner desires to receive future correspondence regarding this application the appropriate documentation must be submitted. **Petitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

This application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

CC: PAUL L. SHARER
PILLSBURY WINTHROP LLP
P.O. BOX 10500
MCLEAN, VA 22102

FEB 20 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

Vincent Sebileau
4 Avenue De Triel
78540 Vernovillet
France

In re Application of	
SEBILEAU, Vincent	
U.S. Application No.: 09/719, 464	DECISION ON PETITION TO
PCT No.: PCT/FR99/01246	REVIVE UNDER 37 CFR
International Filing Date: 27 May 1999	1.137(a)
Priority Date: 28 May 1998	
Attorney's Docket No.:OUVBOC	
For: UTENSIL FOR OPENING CONTAINERS WITH SCREWED LIDS	

This decision is issued in response to applicants' "Petition To Revive Under 37 CFR 1.137(a)" filed on 17 September 2001. Applicant has paid the required small entity petition fee.

BACKGROUND

On 27 May 1999, applicant filed international application PCT/FR99/01246 which claimed a priority date of 28 May 1998 and which designated the United States. On 02 December 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 22 December 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 28 November 2000.

On 08 December 2000, the USPTO received a submission from applicant seeking to enter the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee and a translation of the international application into English.

On 23 January 2001, the USPTO mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States based on applicant's failure to submit the basic national fee within thirty months of the priority date (i.e., before 28 November 2000).

On 17 September 2001, applicants filed the "Petition To Revive Under 37 CFR 1.137(a)" considered herein. In this petition, applicant argues that the delay in submitting the basic national fee was unavoidable in that it resulted from the failure of an international delivery company to timely deliver the application papers to the USPTO.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied (1) by an adequate verified showing of the cause of unavoidable delay, (2) by a proper response, unless already filed, (3) by the petition fee required by law, and (4) by a terminal disclaimer (if necessary). Applicants have satisfied items (2)-(3) above, and item (4) is not applicable. However, as discussed below, applicant's have failed to satisfy item (1).

One of the requirements for a grantable petition under 37 CFR 1.137(a) is an adequate showing that the entire delay in filing the required reply was unavoidable. Section 711.03(c)(2), of the Manual of Patent Examining Procedure ("M.P.E.P.") states the following:

> 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. ...

Here, applicant has presented evidence demonstrating that the materials filed to initiate this national stage application were deposited with "the French post office's special delivery service Chronopost International" on 20 November 2000 (eight days prior to the expiration of the thirty month deadline). Applicant states that Chronopost International guarantees delivery within three days; such delivery would have made the national stage papers timely, with days to spare. However, Chronopost International did not make the guaranteed delivery. Rather, on 04 December 2000, the package was returned to applicant with an apology and a refund. Applicant remailed the materials on 05 December 2000 and these materials, as noted above, were received at the USPTO on 08 December 2000.

If properly supported, the asserted facts would justify a conclusion that applicant acted as a "reasonably prudent person" in depositing the application materials with Chronopost International on 20 November 2000 for delivery to the USPTO, and that the failure of these materials to arrive in a timely manner was therefore unavoidable. However, the present submission does not include sufficient evidence of all the deteminative facts. Specifically, applicant has provided no support for the assertion that Chronopost International guarantees international delivery within three days. Applicant must submit evidence of such guarantee, preferably in materials generated by Chronopost International, before a conclusion can be reached with respect to the reasonableness of applicant's actions. Until such evidence is submitted, item (1) above is not satisfied.

Regarding item (2), the proper response was submission of the national stage materials, and specifically the basic national fee. These materials were filed by applicant on 08 December 2000. Item (2) is satisfied.

The present petition included the required small entity petition fee. Accordingly, item (3) is satisfied, and, as noted above, item (4) does not apply here.

Because applicant has failed to satisfy all the requirements for a grantable petition under 37 CFR 1.137(a), the petition cannot be granted at this time.

Finally, it is noted that, among the materials filed on 08 December 2000 was one page of an inventor's declaration (Form PTO/SB/01). However, the remaining pages of this declaration (including the page on which the applicant would have executed the declaration) are not present in the application file. Accordingly, a complete and executed declaration in compliance with 37 CFR 1.497 has not yet been submitted.

CONCLUSION

The petition to revive the application with respect to the United States under 37 CFR 1.137(a) is **DISMISSED** without prejudice. The application remains abandoned with respect to the United States.

Applicants have **TWO (2) MONTHS** from the mail date of this decision in which to submit a proper response. As discussed above, such a response must include evidence that Chronopost International guarantees international delivery within three days.

In the alternative, applicant might consider filing a petition to revive the application under 37 CFR 1.137(b) (the provision for applications abandoned unintentionally, rather than unavoidably). The evidentiary requirements for such a petition are less stringent than those applied under 37 CFR 1.137(a).

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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

15 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Vincent Sebileau
4 Avenue De Triel
78540 Vernovillet
France

In re Application of	
SEBILEAU, Vincent	
U.S. Application No.: 09/719, 464	DECISION ON PETITION TO
PCT No.: PCT/FR99/01246	REVIVE UNDER 37 CFR
International Filing Date: 27 May 1999	1.137(a)
Priority Date: 28 May 1998	
Attorney's Docket No.:OUVBOC	
For: UTENSIL FOR OPENING CONTAINERS WITH SCREWED LIDS	

In a decision mailed by this Office on 20 February 2002, applicant's petition under 37 CFR 1.137(a) was dismissed for failure to satisfy the requirement of 37 CFR 1.137(a)(3). Specifically, applicant was required to provide evidentiary support for the assertion that Chronopost International guarantees international delivery within three days.

On 18 April 2002, applicant filed a response to the 20 February 2002 decision. The response includes a copy of the customers handbook for Chronopost International. The handbook is in French, but the response includes a translation of relevant sections related to the expected delivery time for packages sent from France to Washington, D.C. Based on the present submission, and applicant's original petition, it is concluded that applicant has now provided an adequate verified showing that the delay here was unavoidable under 37 CFR 1.137(a) and MPEP section 711.03(c)(2). Applicant has therefore now satisfied all the requirements for a grantable petition under 37 CFR 1.137(a).

The petition to revive the application under 37 CFR 1.137(a) is **GRANTED**.

As set forth in the previous decision, applicant's original submission included only one page of the declaration. The present submission does not include a complete declaration. Accordingly, applicant still has failed to find a complete declaration to in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision, including the mailing of a Notification Of Missing Requirements requiring submission of an executed declaration in

compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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United States Patent and Trademark Office
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Paper No.

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GREIGG & GREIGG
1423 POWHATAN STREET UNIT ONE
ALEXANDRIA, VA 22314

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Lothar Fauth :
Application No. 09/719,469 : ON PETITION
Filed: April 18, 2001 :
Attorney Docket No. R.35636 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 10, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 11, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 2800 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA VA 22314

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FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Fauth :
Application No. 09/719,469 : Corrected Letter Regarding
International Filing Date: March 3, 2000 : Patent Term Extension
Docket No. R.35636 :
For: METHOD FOR PROVIDING A WORM :
ON AN ARMATURE SHAFT OF AN :
ELECTRIC MOTOR, AND ARMATURE :
PRODUCED BY THE METHOD :

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 October 20, 2005, which incorrectly states the patent term is extended by 447 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 October 24, 2003. On July 8, 2005, 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 October 24, 2003, the date that the Notice of Appeal was filed, and ending on July 8, 2005, the date of the final decision in favor of the applicant. Three years after the

[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.

international filing date of the application is March 3, 2003. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **624 days**, not 447 days, as printed on the Notice of Allowance, which is the period from October 24, 2003 to July 8, 2005, including the beginning and end dates.

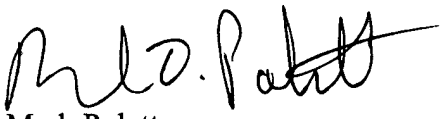
After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **624 days**.

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

JUN 0 1 2001.

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Giulio A. DeConti, Jr.
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of	:	
AKOPOV, et al.	:	DECISION ON PETITION
Application No.: 09/719,497	:	
PCT No.: PCT/RU00/00088	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 17 March 2000	:	
Priority Date: 18 March 1999	:	
Attorney Docket No.: GAI-001US	:	
For: DEVICE FOR THE THERAPEUTIC AND COSMETIC PHOTO-PROCESSING OF BIOLOGICAL TISSUE AND METHOD FOR USING THE SAME	:	

This decision is in response to applicant's "Petition to Revive An Abandoned Application Pursuant to 37 CFR § 1.137(b)" filed 13 December 2000 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 March 2000, applicant filed international application PCT/RU00/00088. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 18 November 2000.

On 18 November 2000, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 13 December 2000, applicant filed the present petition accompanied by a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371." and a copy of the international application in Russian.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the basic national fee. Applicant has authorized deduction of this payment from Deposit Account No. 12-0080 along with the present petition.

As to Item (2), applicant has included a check for $620.00, the appropriate small entity petition fee.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Applicants are still required to submit an executed oath or declaration of the inventors and an translation of the international application into English. Applicant will be charged the appropriate surcharge and filing fee for submitting an oath or declaration and English translation later than twenty months from the priority date.

CONCLUSION

For the reasons stated above, the petition for revival is **GRANTED**.

As authorized, $695.00 will be deducted from Deposit Account 12-0080 ($500.00 for payment of the Basic National Fee, $65.00 for payment of the appropriate surcharge for providing the declaration later than thirty months from the priority date and $130.00 for furnishing the English translation later than 30 months from the claimed priority date).

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905).

Richard Cole
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
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OCT 0 1 2001

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

In re Application of :
ISONO et al. :
Application No.: 09/719,523 : DECISION ON PETITION
PCT No.: PCT/JP99/05473 :
Int. Filing Date: 10 May 1999 : UNDER 37 CFR 1.182
Priority Date: 10 June 1998 :
Attorney Docket No.: 862.C1692 :
For: METHOD OF CONTROLLING IMAGE :
DISPLAY :

This is a decision on applicants' "Corrected Response to Notification of Missing Requirements under 35 U.S.C. 371" filed on 25 April 2001 in the above referenced application and treated as a petition under 37 CFR 1.182 A petition fee of $130 is required and charged to applicant's deposit account no.06-1205 per their authorization.

BACKGROUND

On 02 March 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and surcharge for filing the oath or declaration after the thirty month period were required.

On 29 March 2001, applicants filed a response to the Notification of Missing Requirements along with a combined declaration and power of attorney and the surcharge for filing the declaration after the thirty month period. The declaration referenced application no. 09/719,523; however, the response and the return post card receipt incorrectly referenced application no. 09/791,523. The postcard bore the attorney docket number for application no. 09/719,523.

On 25 April 2001, applicants submitted the instant petition treated as a petition under 37 CFR 1.182 along with a copy of the itemized postcard receipt date-stamped "Mar 29 2001" and a copy of the declaration allegedly deposited on 29 March 2001.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration for 09/719,523 and check in the amount of $130 was deposited with the USPTO on 29 March 2001.

A review of the finance records for 09/791,523 indicates that the surcharge for filing the declaration after the thirty month period ($130) was paid on 29 March 2001. Upon a review of the application file for 09/791,523, the declaration for 09/719,523 was located. The declaration was dated stamped by the USPTO on 29 March 2001. Accordingly, it is appropriate to docket the declaration in 09/719,523 with a deposit date of 29 March 2001.

The transmittal letter of 29 March 2001 identified the U.S. national stage application number as 09/791,523. The declaration was timely filed and therefore, no extension of time is necessary. However, a petition fee of $130.00 is charged to applicants' deposit account no. 06-1205 to correct the incorrect application number which appeared on the 29 March 2001 transmittal letter.

CONCLUSION

The petition under 37 CFR 1.182 to correct the U.S. application number on the response is **GRANTED**.

The application has an international filing date of 05 October 1999 under 35 U.S.C. 363 and **a 35 U.S.C. 371(c) date of 29 March 2001.**

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision. The application will then be forwarded to the appropriate Technology Center for examination in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Richard R. Cole
Legal Examiner
PCT Legal Office

CMK/RRC:cmk

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MAY 15 2002

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In re Application of	:	
ISONO et al.	:	
Application No.: 09/719,523	:	CORRECTION OF
PCT No.: PCT/JP99/05473	:	
Int. Filing Date: 10 May 1999	:	NOTIFICATION OF ACCEPTANCE
Priority Date: 10 June 1998	:	
Attorney Docket No.: 862.C1692	:	AND FILING RECEIPT
For: METHOD OF CONTROLLING IMAGE DISPLAY	:	
	:	

This decision is in response to applicants' Request for Corrected Filing Receipt filed in the United States Patent and Trademark Office (USPTO) on 04 April 2002.

This communication is intended to correct a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 mailed on 16 November 2001 in application 09/719,523. The Notification indicated an incorrect date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. The Notification of Acceptance mailed on 16 November 2001 is hereby **VACATED**.

It is noted that the name of the first inventor is incorrectly indicated on the filing receipt and should be corrected to **Aoji** Isono, of Kanagawa, Japan on the filing receipt.

As indicated in the decision mailed on 01 October 2001, the application has an international filing date of 05 October 1999 under 35 U.S.C. 363 and **a 35 U.S.C. 371(c) date of 29 March 2001.**

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this communication including issuance of a new Notification of Acceptance indicating the 35 U.S.C. 371(c) date as **29 March 2001** and new corrected filing receipt indicating the first named inventor as **Aoji Isono**. The application will then be forwarded to the appropriate Technology Center for examination in due course.

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#8

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Paper No. 8

Young & Thompson
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Arlington, Virginia 22202

In re Application of: G. M. Cornuejols et al.	)	DECISION ON PETITION TO MAKE
Application No. 09/719,567	)	SPECIAL UNDER 37 C.F.R. §1.102(d)
Filed: December 29, 2000	)	AND MPEP § 708.02 (I) AND (VIII):
For: COMMUNICATIONS METHOD AND DEVICE	)	MANUFACTURE AND ACCELERATED EXAMINATION

This is a decision on the petition, filed July 23, 2003 under 37 C.F.R. §1.102(D) and M.P.E.P. §708.02(I): Manufacture and M.P.E.P. 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

I. Manufacture

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.
>
> If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not meet the requirements for special status inasmuch as there is no statement by the applicant addressing the required items of paragraphs (A), (B), (C), or (D) above, and Applicant has not submitted references as required in the preceding paragraph.

II. Accelerated Examination

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 Is deficient in that there is no identification of which references are deemed most closely related, no detailed discussion of the references deemed most closely related and no discussion pointing out how the ***claimed subject matter is patentable over the references***. That is, there is no detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c).

The undersigned notes that although the petition states "Applicant submits three Search Reports made by the European Patent Office and a detailed discussion of each reference cited in those Search Reports", the file only contains a singles IPER (not a search report) and no paper discussing any references.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

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Technology Center 2100
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Paper No. 17

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OFFICE OF PETITIONS

In re Application of
Yoshiki Nakagawa
Application No. 09/719,580
Filed: March 9, 2001
Attorney Docket No. 1581/00234

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 8, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1713 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

MAY 17 2001

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

D. Peter Hochberg
D. Peter Hochberg Co., L.P.A.
1940 E. 6th street- 6th floor
Cleveland, OH 44114-2294

In re Application of
SCHMITZ et al
Application No.: 09/719,731
PCT No.: PCT EP99/01246
Int. Filing Date: 26 FEBRUARY 1999
Priority Date: 14 MARCH 1998
Attorney's Docket No.: R00099US
For: SILICONE CONTACT ADHESIVE WITH REDUCED COLD FLOW

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the "Petition For Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 15 December 2000.

BACKGROUND

On 26 February 1999, this international application was filed, claiming an earliest priority date of 14 March 1998.

On 13 September 1999, a Demand electing the United States was filed in this 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 14 September 2000. This international application became abandoned with respect to the United States at midnight on 14 September 2000 for failure pay the basic national fee.

On 15 December 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. No executed declaration or oath was submitted with this petition.

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. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (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**.

Because no terminal disclaimer was required for this international application, the $110.00 fee submitted under 37 CFR 1.20(d) is being refunded to applicants' representative Account No.08-2441. In addition, the required fee of $130.00 for the surcharge under 1.492(e) for late filing of the declaration has been charged to Deposit Account No. 08-2441 as authorized in the transmittal letter.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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Rafael Bacares
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JUN 15 2001

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CHIFF HARDIN & WAITE
Patent Department
6600 Sears Tower
Chicago, IL 60606

In re Application of	:	
UHRENIUS et al.	:	
Application No.: 09/719739	:	
PCT No.: PCT/SE99/01018	:	DECISION ON PETITION
Int. Filing Date: 09 June 1999	:	
Priority Date: 16 June 1998	:	
Attorney Docket No.: POO,1935	:	
For: HEART STIMULATOR . . . THRESHOLD	:	

This is a decision on applicants' response to the Notification of Missing Requirements filed 01 March 2001.

BACKGROUND

On 09 June 1999, applicant filed international application PCT/SE99/01018, which claimed a priority date of 16 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 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 18 December 2000 (16 December 2000 being a Saturday).

On 14 December 2000, applicants filed, *inter alia*, the Basic National Fee and an unexecuted declaration of the inventors.

On 31 January 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration submitted on 14 December 2000 did not comply with 37 CFR 1.497(a)-(b) because it was not executed, and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 01 March 2001, applicants filed the instant response to the Notification of Missing

Requirements, which was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a document form the Swedish Tax Authority showing that the inventor Feresteh Geller-Falk has made a legal change of name to Feresteh Shojaei.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With regard to item (1), the $130 petition fee has not been paid.

With regard to item (2), applicants have not provided an affidavit signed with both names or a certified copy of the court order. Applicants have provided a copy of an extract of the population register from the Swedish Tax Administration. However, it is not clear whether the copy is certified and it is not the court order whereby the change of name was effected.

CONCLUSION

For the reasons above, the petition 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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". No additional petition fee is required.

A proper response must include an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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
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30 AUG 2002

#6

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Schiff Hardin & Waite
Patent Department
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In re Application of	:	
UHRENIUS, Åsa, et al.	:	DECISION ON
Application No.: 09/719,739	:	
PCT No.: PCT/SE99/01018	:	PETITION
Int. Filing Date: 09 June 1999	:	
Priority Date: 16 June 1998	:	UNDER 37 CFR 1.137(a)
Attorney Docket No.: P00,1935	:	
For: HEART STIMULATOR ... THRESHOLD	:	

This is a decision on applicants' "Petition Under 37 C.F.R. 1.137(a)," filed with the United States Patent and Trademark Office on 22 April 2002.

BACKGROUND

On 09 June 1999, applicants filed international application PCT/SE99/01018, which claimed a priority date of 16 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 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 18 December 2000 (16 December 2000 was a Saturday).

On 14 December 2000, applicants filed, *inter alia*, the Basic National Fee and an unexecuted declaration of the inventors.

On 31 January 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration submitted on 14 December 2000 did not comply with 37 CFR 1.497(a)-(b) because it was not executed, and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 01 March 2001, applicants filed the response to the Notification of Missing Requirements, which was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a document form the Swedish Tax Authority showing that the inventor Fereshteh Geller-Falk has made a legal change of name to Fereshteh Shojaei.

On 15 June 2001, the Office mailed Decision On Petition dismissing applicants' Petition Under 37 CFR 1.182 without prejudice.

On 22 April 2002, applicants filed the instant Petition Under 37 CFR 1.137(a).

DISCUSSION

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (2) and (4) have been met. Applicants have submitted the petition fee and a terminal disclaimer is not required as the application was filed on or after 08 June 1995.

As to item (1), the proper response is a grantable petition under 37 CFR 1.182.

The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The fee will be charged to deposit account no. 50-1519.

A disparity exists in the first names. Applicant has signed her first name as "Fereshteh." in each case above lines listing her name as "Feresteh." The Swedish Tax Authority extract also lists Ms. Shojaei's name as "Fereshteh," not as "Feresteh" as listed on the declaration, the "declaration of Feresteh Shojaei" and International Application. If this is a transliteration error, it can be corrected by a statement from the applicant. See MPEP 201.03.

Item (3) has not been met. Applicants must demonstrate that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable. The reply was due on 15 August 2001. Applicants did not file until 22 April 2002. The declaration of Ms. Shojaei is dated 21 August 2001. Applicants indicate that they were waiting to file the petition. They indicate that they were waiting for receipt of the Notification of Abandonment. A Notification of Abandonment is not a necessary element to the petition to revive. Further, a Notification of Abandonment is merely a courtesy to applicant. An application goes abandoned by operation of law. However, at the time applicants received the declaration for the petition under 37 CFR 1.182, applicants need only have submitted it with the fee for a one month extension of time under 37 CFR 1.136(a). These facts indicate that the delay was perhaps unintentional, but not unavoidable.

In determining whether a delay was "unavoidable," the "reasonably prudent person" standard is used. See, e.g., MPEP 711.03(c), which states, in pertinent part:

> 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.*** [citing to In re Mattullath, 38 App. D.C. 497, 514 (1912); emphasis added]

The facts set forth in the petition do not support a finding that the delay in filing the required reply was unavoidable. In other words, applicants have not demonstrated that in the present case, they exercised

the degree of care that a "reasonably prudent person" would exercise in conducting his/her "most important business." Specifically, the abandonment was not unavoidable because it was entirely in the control of the applicant. Applicant knew this application was before the Office when she went to Iran for an extended stay without providing a method of contact. This is not the conduct of a reasonable and prudent person with his/her most important business.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

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.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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20 JUN 2003

#8

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In re Application of	:	
UHRENIUS, Åsa, et al.	:	DECISION ON
Application No.: 09/719,739	:	
PCT No.: PCT/SE99/01018	:	PETITION
Int. Filing Date: 09 June 1999	:	
Priority Date: 16 June 1998	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: P00,1935	:	
For: HEART STIMULATOR ... THRESHOLD	:	

This is a decision on applicants' "Petition For Revival of Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b)," filed with the United States Patent and Trademark Office on 04 November 2002.

BACKGROUND

On 09 June 1999, applicants filed international application PCT/SE99/01018, which claimed a priority date of 16 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 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 18 December 2000 (16 December 2000 was a Saturday).

On 14 December 2000, applicants filed, *inter alia*, the Basic National Fee and an unexecuted declaration of the inventors.

On 31 January 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration submitted on 14 December 2000 did not comply with 37 CFR 1.497(a)-(b) because it was not executed, and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 01 March 2001, applicants filed the response to the Notification of Missing Requirements, which was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a document form the Swedish Tax Authority showing that the inventor Fereshteh Geller-Falk has made a legal change of name to Fereshteh Shojaei.

On 15 June 2001, the Office mailed Decision On Petition dismissing applicants' Petition Under 37 CFR 1.182 without prejudice.

On 22 April 2002, applicants filed a Petition Under 37 CFR 1.137(a).

On 30 August 2002, the Office dismissed applicants' petition without prejudice.

On 04 November 2002, applicants submitted the instant petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement of facts is construed to mean that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is not a correct interpretation, applicants must notify the Office immediately. A terminal disclaimer is not required as application was filed on or after 08 June 1995 Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicants have yet to provide a grantable petition under 37 CFR 1.182.

Petition Under 37 CFR 1.182

As previously discussed, the petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Item (1) was previously met.

Item (2) has still not been satisfied. The declaration indicates that it is made by "Feresteh Shojaei". However, applicant has signed her first name as "Feres**H**teh." in each case above lines listing her name as "Feresteh." The Swedish Tax Authority extract also lists Ms. Shojaei's name as "Feres**H**teh," not as "Feresteh" as listed on the declaration, the "declaration of Feresteh Shojaei" and International Application. If this is a transliteration error, it can be corrected by a statement from the applicant. See MPEP 201.03.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(b) is **DISMISSED** without prejudice..

The Petition Under 37 CFR 1.182 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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and 1.182".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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#10

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30 SEP 2003

Schiff Hardin & Waite
Patent Department
6600 Sears Tower
Chicago, IL 60606

In re Application of :
UHRENIUS, Åsa, et al. : DECISION ON
Application No.: 09/719,739 :
PCT No.: PCT/SE99/01018 : PETITION
Int. Filing Date: 09 June 1999 :
Priority Date: 16 June 1998 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: P00,1935 :
For: HEART STIMULATOR ... THRESHOLD:

This is a decision on applicants' "Request For Reconsideration of Decision Dated June 20, 2003," filed with the United States Patent and Trademark Office on 18 August 2003.

BACKGROUND

On 09 June 1999, applicants filed international application PCT/SE99/01018, which claimed a priority date of 16 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 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 18 December 2000 (16 December 2000 was a Saturday).

On 14 December 2000, applicants filed, *inter alia*, the Basic National Fee and an unexecuted declaration of the inventors.

On 31 January 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration submitted on 14 December 2000 did not comply with 37 CFR 1.497(a)-(b) because it was not executed, and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 01 March 2001, applicants filed the response to the Notification of Missing Requirements, which was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a document form the Swedish Tax Authority showing that the inventor Fereshteh Geller-Falk has made a legal change of name to Fereshteh Shojaei.

On 15 June 2001, the Office mailed Decision On Petition dismissing applicants' Petition Under 37 CFR 1.182 without prejudice.

On 22 April 2002, applicants filed a Petition Under 37 CFR 1.137(a).

On 30 August 2002, the Office dismissed applicants' petition without prejudice.

On 04 November 2002, applicants submitted a petition under 37 CFR 1.137(b).

On 20 June 2003, the petition was dismissed without prejudice.

On 18 August 2003, applicants submitted a renewed petition accompanied by a statement under MPEP 201.03.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3), and (4) were previously satisfied. Item (2) has not been satisfied. Applicants have supplied a grantable petition under 37 CFR 1.182. However, a review of the declaration revealed that it contains non-initialed, non-dated alterations on page three. New oaths or declarations executed by the inventors are required. 37 CFR 1.52(c)(1).

Petition Under 37 CFR 1.182

As previously discussed, the petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Item (1) was previously met.

Item (2) has now been satisfied. Applicants have furnished a statement under MPEP 201.03 confirming that the spelling discrepancy in Ms. Shojaei's name is a transliteration error.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(b) is **DISMISSED** without prejudice..

The Petition Under 37 CFR 1.182 is **GRANTED**.

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)".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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21 APR 2004

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Schiff Hardin & Waite
Patent Department
6600 Sears Tower
Chicago, IL 60606

In re Application of :
UHRENIUS, Åsa, et al. : DECISION ON
Application No.: 09/719,739 :
PCT No.: PCT/SE99/01018 : PETITION
Int. Filing Date: 09 June 1999 :
Priority Date: 16 June 1998 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: P00,1935 :
For: HEART STIMULATOR ... THRESHOLD :

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.137(b)," filed with the United States Patent and Trademark Office on 17 November 2003.

BACKGROUND

On 09 June 1999, applicants filed international application PCT/SE99/01018, which claimed a priority date of 16 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 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 18 December 2000 (16 December 2000 was a Saturday).

On 14 December 2000, applicants filed, *inter alia*, the Basic National Fee and an unexecuted declaration of the inventors.

On 31 January 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration submitted on 14 December 2000 did not comply with 37 CFR 1.497(a)-(b) because it was not executed, and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 01 March 2001, applicants filed the response to the Notification of Missing Requirements, which was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a document form the Swedish Tax Authority showing that the inventor Fereshteh Geller-Falk has made a legal change of name to Fereshteh Shojaei.

On 15 June 2001, the Office mailed Decision On Petition dismissing applicants' Petition Under 37 CFR 1.182 without prejudice.

On 22 April 2002, applicants filed a Petition Under 37 CFR 1.137(a).

On 30 August 2002, the Office dismissed applicants' petition without prejudice.

On 04 November 2002, applicants submitted a petition under 37 CFR 1.137(b).

On 20 June 2003, the petition was dismissed without prejudice.

On 18 August 2003, applicants submitted a renewed petition accompanied by a statement under MPEP 201.03.

On 30 September 2003, the Office dismissed the renewed petition without prejudice.

On 17 November 2003, applicants submitted a second renewed petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3), and (4) were previously satisfied. Item (2) has now been satisfied.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 17 November 2003 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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JUL 13 2005

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:
Adi Kimchi	:
Serial No.: 09/719,748	: PETITION DECISION
Filed: February 27, 2001	:
Attorney Docket No.: KIMCHI2A	:

This is in response to the petition under 37 CFR 1.181, filed March 12, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on June 2, 2003, setting a three month shortened statutory period for reply. Applicants replied on October 2, 2003, including a request and fee for a one month extension of time. A Notice of Abandonment was mailed to applicants on March 1, 2004, when the reply was not timely correlated with the file. Applicant has supplied a duplicate copy of the reply with this petition. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 13 2004

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HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

MAILED

MAY 13 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Roland Lippert et al
Application No. 09/719,759
Filed: December 14, 2000
For: MULTI-ROW RADIAL BEARING

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING O ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 21, 2003.

The petition is **DENIED**.

A review of the file record indicates applicants filed a Notice of Appeal on December 4, 2002, but did not subsequently file an Appeal Brief. The application was held abandoned and a Notice to that affect was mailed August 11, 2003.

Applicants' petition refers to two telephone calls with the examiner in which the outstanding Office action was discussed; however, no Interview Summaries and/or Office actions were mailed in response to these telephone calls. Although the examiner may have indicated an intention to issue a new Office action, applicants are not relieved of the duty to timely file an Appeal Brief or other appropriate response absent receipt of a new Office action from the examiner which reopens prosecution.

Applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9285.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 5/12/04

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Paper No. 14

HENRY M FEIEREISEN
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

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MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Roland Lippert et al :
Application No. 09/719,759 : ON PETITION
Filed: December 14, 2000 :
Attorney Docket No. LIPPERT :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 4, 2002, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on February 5, 2003. See MPEP 1215.04.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3683.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

30 JUL 2009

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P.O. BOX 1450
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National Starch LLC
10 Finderne Avenue
PO Box 5932
Bridgewater, NJ 08807-0500

In re Application of :
EDWARDS *et al* :
Patent No.: 6,635,756 :
PCT No.: PCT/GB99/01902 :
Int. Filing Date: 15 June 1999 : DECISION
Priority Date: 15 June 1998 :
Atty. Docket No.: 1770 :
For: IMPROVEMENTS IN OR :
RELATING TO PLANTS... :

This is a decision on applicants' petition filed in the U.S. Patent and Trademark Office (USPTO) on 21 October 2008, which requests that continuity be established between the international and national stage.

On petition, and based on the specific facts of the present application, the request for continuity is approved and continuity between the international and national stage is deemed to have been established.

Richard R. Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

Cc: Erich E. Veitenheimer
Cooley Godward Kronish, LLP
Attn.: Patent Group
777 6th Street, NW, Suite 100
Washington, DC 20001

MAR 1 5 2001

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WASHINGTON, D.C. 20231
www.uspto.gov

#3

Tracy-Gene G. Durkin
STERN, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, NW Suite 600
Washington, D.C. 20005

In re Application of :
MIYANISHI :
Application No.: 09/719,772 : DECISION ON PETITION
PCT No.: PCT/JP00/00664 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 February 2000 :
Priority Date: 09 February 1999 :
Attorney Docket No.: 0666.1650000/TGD/TUM :
For: HYDRAULICALLY DRIVEN WORKING MACHINE

The petition to revive under 37 CFR 1.137(b) filed 18 December 2000 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $860 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 United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a translation of the international application is required.

Anthony Smith

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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Commissioner for Patents
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Paper No. 7

Birch Stewart Kolasch & Birch
PO Box 747
Falls Church, VA 22040-0747

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MAR 25 2003

OFFICE OF PETITIONS

In re Application of :
Hikaru Yamagata et al. :
Application No. 09/719,875 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 0599-0205P :

This is a decision on the petition under 37 CFR 1.182, filed January 14, 2003, to correct the inventor's name.

The petition is **granted**.

The name of the first inventor has been corrected to read as follows: **Hikaru Yamagata**.

The application file is being forwarded to the PCT Legal Office for review of the petition under 1.137(b) filed January 14, 2003.

Any questions concerning this matter may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#9

09 MAY 2003

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
YAMAGATA, Hikaru *et al* :
U.S. Application No.: 09/719,875 :
PCT No.: PCT/JP00/02515 :
Int. Filing Date: 18 April 2000 : **DECISION ON**
Priority Date: 19 April 1999 : **PETITION FOR REVIVAL**
Attorney Docket No.: 0599-0205P : **UNDER 37 CFR 1.137(b)**
For: BIAXIALLY ORIENTED POLYESTER :
FILM, PRODUCTION METHOD :
THEREOF, AND MAGNETIC :
RECORDING MEDIUM :

This decision is in response to the papers filed 22 November 2002 and 14 January 2003. Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR § 1.137(b)" filed in this application is hereby **GRANTED** as follows:

The petition to revive fee of $1,280.00 was paid with the original petition to revive filed 22 November 2003. Applicants state that "[t]he entire delay in filing the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) has been provided on 14 January 2003. The requirements for acceptance under 35 U.S.C. 371(c) have been completed. The application has an international filing date of 18 April 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 January 2003**.

This application is being forwarded to the National Stage Processing Division for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Offices of Karl Hormann
86 Sparks Street
Cambridge MA 02138-2216

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Frank PUTTKAMMER et al. :
Application No. 09/719,881 : ON PETITION
Filed: January 10, 2001 :
Attorney Docket No. 000437 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 3, 2003, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 4, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $395 filing fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of June 3, 2003 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

A revocation of power of attorney by the assignee was filed December 8, 2005. The revocation is not acceptable because the statement under 37 CFR 3.73(b) did not include 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). A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3722 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petitions

CC: NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Puttkammer et al.	:	DECISION ON APPLICATION
Application No. 09/719,881	:	FOR
International Filing Date:	:	PATENT TERM ADJUSTMENT
June 15, 1999	:	
Atty Docket No. HENN0014UPCT-	:	
US-DA-184T	:	

This is a decision on the "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT" filed October 26, 2007. Therein, applicants request that the patent term extension be extended by 57 days on the grounds that the Office took more than four months to respond to their reply filed March 29, 2007.

The petition is **DISMISSED**.

On September 20, 2007, the Office mailed the Determination of Patent Term Extension under 35 U.S.C. 154(b)(application filed after June 7, 1995 but prior to May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 0 days. Applicants assert entitlement to a period of adjustment of 57 days for examination delay.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The provisions do not apply to international application filed before May 29, 2000 by virtue of the requirements of 35 U.S.C. 371 having been met on or after May 29, 2000. The date on which an international application fulfills the requirements of 35 U.S.C. 371 is not the filing date, or even relevant to the filing date, of the international

application. Section 4405 of the American Inventors Protection Act of 1999 provides that the amendments relating to patent term adjustment shall apply to any application filed on or after May 29, 2000, but does not provide that its patent term adjustment provisions apply to international applications filed before May 29, 2000, that complied with the requirements of 35 U.S.C. 371 on or after May 29, 2000. See Comment 6 to Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000).

Since the international filing date of this application, June 15, 1999, is before May 29, 2000, this application is not eligible for patent term adjustment due to examination delay.

35 U.S.C. § 154 continues to provide for patent term extension for delays caused by an interference proceeding, imposition of a secrecy order or successful appellate review, in applications filed on or after June 8, 1995 and before May 29, 2000, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, of other administrative delays in applications filed on or after May 29, 2000. See 35 U.S.C. § 154(b) and 37 CFR 1.701. However, applicants do not request extension of the patent term on any of those grounds. Nor does a review of the application history reveal that this application has been subject to delay in issuance based on any of those grounds.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries with regard to this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

In re Application of	:	DECISION
KUPERUS et al.	:	
Application No.: 09/719,899	:	
PCT No.: PCT/JP98/05785	:	
Int. Filing Date: 04 August 2000	:	
Priority Date: 13 August 1999	:	
Attorney Docket No.: 4947.02	:	
For: CEILING SYSTEM WITH REPLACEMENT PANELS	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed 18 October 2001 and the "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS" filed 11 October 2001.

BACKGROUND

On 04 August 2000, applicants filed international application PCT/US00/21343, which claimed a priority date of 13 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 March 2001, within 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 13 February 2002.

On 19 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 an unexecuted declaration of inventors.

On 18 May 2001, 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) as well as the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a two-month extendable period for reply.

On 11 October 2001, applicants submitted a "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS".

On 18 October 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)".

DISCUSSION

Petition to Change Order of Inventor's Names

The petition filed 11 October 2001 requests that order of the names of the inventors be changed to list Paul G. Swiszcz as the first named inventor and Ko Kuperus as the second named inventor. As noted in MPEP § 605.04(f), since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. The petition fee of $130 has been paid. The petition to change the order of the names of the inventors is granted.

Response to Notification of Missing Requirements

Request for Refund

The "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" requests that the three month extension of time fee accompanying the response be refunded since the NOTIFICATION OF MISSING REQUIREMENTS was delay in reaching the applicants due to an incorrect mailing address. The mailing address on the NOTIFICATION OF MISSING REQUIREMENTS was "GARY M. POLUMBUS, DORSEY & WHITNEY, CUSTOMER NO. 20686". The NOTIFICATION was returned to the USPTO as undeliverable. Applicants indicate that a copy of the NOTIFICATION OF MISSING REQUIREMENTS with the incorrect address was faxed to them by someone from the PCT Help Desk on 15 October 2001 after a status inquiry to the PCT Help Desk on 12 October 2001. There is no indication that the NOTIFICATION OF MISSING REQUIREMENTS was remailed to the correct address. Accordingly, in that the NOTIFICATION OF MISSING REQUIREMENTS was never properly mailed, the three month extension of time fee will be refunded. The amount of $920 will be credited to Deposit Account No. 04-1415.

Declaration of Inventors

The declaration of inventors submitted 18 October 2001 fails to comply with 37 CFR 1.497(a)-(b) since it fails to identify the citizenship of Ko Kuperus.

CONCLUSION

The petition under 37 CFR 1.182 to change the order of the names of the inventors is **GRANTED**.

The request for refund of the three month extension of time fee paid on 18 October 2001 is **GRANTED** for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Extensions of time under 37 CFR 1.136(a) are available. Failure to properly respond will result in abandonment.

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 changing the order of the inventor's names to listing Paul G. Swiszcz as the first named inventor and Ko Kuperus as the second named inventor in the USPTO records, including the PALM database. All future communications by applicants should list Paul G. Swiszcz as the first-named inventor.

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In re Application of	:	DECISION
KUPERUS et al.	:	
Application No.: 09/719,899	:	
PCT No.: PCT/JP98/05785	:	
Int. Filing Date: 04 August 2000	:	
Priority Date: 13 August 1999	:	
Attorney Docket No.: 4947.02	:	
For: CEILING SYSTEM WITH REPLACEMENT PANELS	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed 18 October 2001 and the "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS" filed 11 October 2001.

BACKGROUND

On 04 August 2000, applicants filed international application PCT/US00/21343, which claimed a priority date of 13 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 March 2001, within 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 13 February 2002.

On 19 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 an unexecuted declaration of inventors.

On 18 May 2001, 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) as well as the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a two-month extendable period for reply.

MAR 2 9 2002

Dorsey & Whitney LLP

Mail Ledger	4947.02
Docketed	3/29/2002
Due Date	

On 11 October 2001, applicants submitted a "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS".

On 18 October 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)".

DISCUSSION

Petition to Change Order of Inventor's Names

The petition filed 11 October 2001 requests that order of the names of the inventors be changed to list Paul G. Swiszcz as the first named inventor and Ko Kuperus as the second named inventor. As noted in MPEP § 605.04(f), since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. The petition fee of $130 has been paid. The petition to change the order of the names of the inventors is granted.

Response to Notification of Missing Requirements

Request for Refund

The "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" requests that the three month extension of time fee accompanying the response be refunded since the NOTIFICATION OF MISSING REQUIREMENTS was delay in reaching the applicants due to an incorrect mailing address. The mailing address on the NOTIFICATION OF MISSING REQUIREMENTS was "GARY M. POLUMBUS, DORSEY & WHITNEY, CUSTOMER NO. 20686". The NOTIFICATION was returned to the USPTO as undeliverable. Applicants indicate that a copy of the NOTIFICATION OF MISSING REQUIREMENTS with the incorrect address was faxed to them by someone from the PCT Help Desk on 15 October 2001 after a status inquiry to the PCT Help Desk on 12 October 2001. There is no indication that the NOTIFICATION OF MISSING REQUIREMENTS was remailed to the correct address. Accordingly, in that the NOTIFICATION OF MISSING REQUIREMENTS was never properly mailed, the three month extension of time fee will be refunded. The amount of $920 will be credited to Deposit Account No. 04-1415.

Declaration of Inventors

The declaration of inventors submitted 18 October 2001 fails to comply with 37 CFR 1.497(a)-(b) since it fails to identify the citizenship of Ko Kuperus.

CONCLUSION

The petition under 37 CFR 1.182 to change the order of the names of the inventors is **GRANTED**.

The request for refund of the three month extension of time fee paid on 18 October 2001 is **GRANTED** for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Extensions of time under 37 CFR 1.136(a) are available. Failure to properly respond will result in abandonment.

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 changing the order of the inventor's names to listing Paul G. Swiszcz as the first named inventor and Ko Kuperus as the second named inventor in the USPTO records, including the PALM database. All future communications by applicants should list Paul G. Swiszcz as the first-named inventor.

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08 JUL 2002

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In re Application of	:	NOTIFICATION
SWISZCZ et al.	:	
Application No.: 09/719,899	:	
PCT No.: PCT/US00/21343	:	
Int. Filing Date: 04 August 2000	:	
Priority Date: 12 August 1999	:	
Attorney Docket No.: 4947.02	:	
For: CEILING SYSTEM WITH REPLACEMENT PANELS	:	

This notification is in response to applicants' "REQUEST FOR CORRECTION OF FILING DATE OF THE PRIORITY CLAIM" filed 16 January 2002 and the declaration of inventors filed 29 April 2002.

BACKGROUND

On 04 August 2000, applicants filed international application PCT/US00/21343, which claimed a priority date of 13 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 March 2001, within 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 13 February 2002.

On 19 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 an unexecuted declaration of inventors.

On 18 May 2001, 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) as well as the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a two-month extendable period for reply.

On 11 October 2001, applicants submitted a "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS".

On 18 October 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)".

On 16 January 2002, applicants submitted a "REQUEST FOR CORRECTION OF FILING DATE OF THE PRIORITY CLAIM" requesting that the filing date of the priority application be changed from 13 August 1999 to 12 August 1999.

On 22 March 2002, the USPTO mailed a decision granting applicants' petition under 37 CFR 1.182 to change to order of the names of the inventors and granting applicants' request for refund of the three month extension of time fee paid on 18 October 2001. The decision also indicated that the declaration of inventors submitted 18 October 2001 fails to comply with 37 CFR 1.497(a)-(b) because it fails to identify the citizenship of Ko Kuperus. The decision set a two-month extendable time period for providing an oath or declaration in compliance with 37 CFR 1.497(a)-(b). (The decision did not discuss the "REQUEST FOR CORRECTION OF FILING DATE OF THE PRIORITY CLAIM" filed 16 January 2002 since it had not yet been matched with the application file.)

On 29 April 2002, applicants filed a declaration of inventors.

DISCUSSION

The request to change the filing date of priority application 60/148,834 from 13 August 1999 to 12 August 1999 is GRANTED. The copy of the decision mailed by the USPTO from the Office of Petitions on 29 March 2001 is sufficient to establish that the filing date of the priority application should be 12 August 1999.

The declaration of inventors submitted 29 April 2002 fails to comply with 37 CFR 1.497(a)-(b) because it is not executed by all of the inventors. As noted above, the declaration of inventors submitted 18 October 2001 fails to comply with 37 CFR 1.497(a)-(b) since it fails to identify the citizenship of Ko Kuperus. Although inventors may execute separate declarations, each executed declaration must comply with 37 CFR 1.497(a)-(b). (I.e., A declaration identifying, *inter alia*, the citizenship of Ko Kuperus must be executed by Paul G. Swiszcz.)

CONCLUSION

The request to correct the filing date of priority application 60/148,834 is **GRANTED** for the reasons set forth above.

Applicant is required to complete the response within a time limit of **ONE MONTH** from the date of this Notification or within the time remaining in the response set forth in the Decision

mailed 22 March 2002, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Decision mailed 22 March 2002 may be extended up to a maximum of five months.

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.

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19 AUG 2003

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In re Application of SWISZCZ et al. Application No.: 09/719,899 PCT No.: PCT/US00/21343 Int. Filing Date: 04 August 2000 Priority Date: 12 August 1999 Attorney Docket No.: 4947.02 For: CEILING SYSTEM WITH REPLACEMENT PANELS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' submission filed via facsimile transmission on 07 August 2003, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 August 2000, applicants filed international application PCT/US00/21343, which claimed a priority date of 13 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 March 2001, within 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 13 February 2002.

On 19 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 an unexecuted declaration of inventors.

On 18 May 2001, 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) as well as the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a two-month extendable period for reply.

On 11 October 2001, applicants submitted a "PETITION TO CHANGE ORDER OF INVENTOR'S NAMES-JOINT INVENTORS".

On 18 October 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)".

On 16 January 2002, applicants submitted a "REQUEST FOR CORRECTION OF FILING DATE OF THE PRIORITY CLAIM" requesting that the filing date of the priority application be changed from 13 August 1999 to 12 August 1999.

On 22 March 2002, the USPTO mailed a decision granting applicants' petition under 37 CFR 1.182 to change to order of the names of the inventors and granting applicants' request for refund of the three month extension of time fee paid on 18 October 2001. The decision also indicated that the declaration of inventors submitted 18 October 2001 fails to comply with 37 CFR 1.497(a)-(b) because it fails to identify the citizenship of Ko Kuperus. The decision set a two-month extendable time period for providing an oath or declaration in compliance with 37 CFR 1.497(a)-(b). (The decision did not discuss the "REQUEST FOR CORRECTION OF FILING DATE OF THE PRIORITY CLAIM" filed 16 January 2002 since it had not yet been matched with the application file.)

On 29 April 2002, applicants filed a declaration of inventors.

On 08 July 2002, the USPTO mailed a decision indicating that the request to change the filing date of priority application 60/148,834 from 13 August 1999 to 12 August 1999 was granted, but that the declaration of inventors submitted 29 April 2002 failed to comply with 37 CFR 1.497(a)-(b) because it was not executed by all of the inventors. A time limit of one month or the time remaining in the response set forth in the Decision mailed 22 March 2002, whichever was the longer, was set for applicants to complete the required response.

On 07 August 2003, applicants filed the instant submission via facsimile transmission on 07 August 2003, which has been treated as a petition under 37 CFR 1.181. The submission was accompanied by, *inter alia*, a date-stamped postcard receipt and a declaration of inventors.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 05 August 2002 applicants filed the declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 05 August 2002 and which itemizes the declaration and identifies the above-captioned docket number, inventors and title. Further, practitioner states that the copy of the declaration filed 07 August 2003 is a true copy of the declaration originally filed 05 August 2002. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 07 August 2003 may properly be accepted as originally received in the USPTO on 05

August 2002. The declaration of inventors filed 05 August 2002 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

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 **05 August 2002**.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/2007

TO SPE OF : ART UNIT 1600 (1648)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,148,329

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 dep. change to claim 44, from 13 to 1, as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell — **SPE**

1648 — **Art Unit**

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ARLINGTON, VA 22202

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Steven Ball :
Application No. 09/719,978 : ON PETITION
Filed: April 25, 201 :
Attorney Docket No. BET-00/1188 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed June 20, 2003. A three (3) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is December 21, 2003. A Notice of Abandonment was mailed on April 20, 2004.

The file is being forwarded to Technology Center 1600 for review of the Request For Continued Examination, submitted April 30, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ROBINSON INTELLECTUAL PROPERTY LAW OFFICE
P.C. PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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NOV 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Junichi Hayakawa et al :
Application No. 09/720,028 : ON PETITION
Filed: December 20, 2000 :
Attorney Docket No. 0670-251

This is a decision on the petition, filed November 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 October 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Junichi Hayakawa et al
Application No. 09/720,028
Filed: December 20, 2000
Attorney Docket No. 0670-251

Pdd 12/1/03.

This is a decision on the petition, filed November 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 October 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SEP 26 2001

#c/

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd, 7th Floor
Los Angeles, CA 90025-1026

In re Application of	:	
FOUNTAINE, Howard	:	DECISION ON PETITION UNDER
U.S. Application No.: 09/720,064	:	37 CFR 1.10(d), REQUEST FOR
PCT No.: PCT/NZ99/00078	:	REFUND, AND RESPONSE TO
International Filing Date: 10 June 1999	:	NOTIFICATION OF
Priority Date: 18 June 1998	:	ABANDONMENT
Attorney's Docket No.: 37261PO64	:	
For: A MULTI-LINK CONNECTOR	:	

This decision is in response to applicant's "Petition Pursuant To Rule 1.10(d)" filed 02 March 2001, the "Request For Refund" filed 16 April 2001, and the "Response To Notification Of Abandonment" filed 25 May 2001.

BACKGROUND

On 10 June 1999, applicant filed international application No. PCT/NZ99/00078, which claimed a priority date of 18 June 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") from the International Bureau ("IB") on 23 December 1999.

On 21 December 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 thirty months from the priority date, i.e., 18 December 2000.

Applicant subsequently filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the large entity basic national fee. Based on the "Date In" indicated on the Express Mail label in which the materials arrived, the United States Designated/Elected Office (DO/EO/US) accorded the submission a filing date of 19 December 2000.

On 02 March 2001, applicant filed the "Petition Pursuant To Rule 1.10(d)" considered herein. This petition requests that the filing date for the national stage papers be corrected from 19 December 2000 to 18 December 2000, the date petitioner avers that the application was deposited with the United States Postal Service ("USPS") as "Express Mail."

On 15 March 2001, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/909) indicating that the application was abandoned with respect to the United States for failure to file the required materials within thirty months of the priority date.

On 16 April 2001, applicant filed the "Request For Refund" considered herein. The Request For Refund asserts that the applicant is a small entity and is therefore entitled to a refund of $630, that is, one half of the large entity fees submitted on 19 December 2000.

On 25 May 2001, applicant filed the "Response To Notification Of Abandonment" considered herein.

DISCUSSION

A. Petition Under 37 CFR 1.10(d)

The original "Express Mail" mailing label No. "EM014067492US" is located in the application file and bears the entry 19 December 2000 in the "Date-In" box on the label. It also bears a PTO Mail Center date stamp of 19 December 2000.

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 "EM014067492US" was placed on the transmittal letter prior to the original mailing by "Express Mail".

With regard to item (3), applicant submitted the declaration of Barbara Webster, an "Office Services Clerk" for the attorney of record, along with a copy of page of counsel's "Express Mail" logbook which includes a highlighted entry initialed by Ms. Webster. The highlighted logbook entry provides the date and time of deposit (12/18/2000, 7:00 pm), the attorney docket number (37261PO64), the "Express Mail" label no. (EM014067492US), the location of the post office (Airport Post Office), the time of the last pick-up at this post office (12:00 am), the name and initials of the depositor (Barbara Webster), and the date entered (12/18/2000).

In her declaration, Ms. Webster confirms the information set forth in the attached logbook entry, that is, that on 18 December 2000, she deposited "Express Mail" label no. EM014067492US with the USPS at the referenced U.S. Post Office located at 9029 Airport Boulevard, Los Angeles, CA 90009. She also states that the entry in the attached log was made on 18 December 2000. However, Ms. Webster does not state when on 18 December 2000 she made the entry in the attached log; it therefore is not clear whether the log entry was made after the 7:00 pm deposit of the package, as required. In addition, Ms. Webster does not state whether the package was deposited in a dropbox or handed to a USPS employee at the counter.

The evidence provided in support of item (3) must be supplemented by further evidence setting forth the time at which the log entry was made, the specifics of the deposit (i.e., drop-box or counter), and, if the package was deposited at the counter, an explanation as to why Ms. Webster did not identify the "date in" error at that time. Until such further evidence is provided, item (3) is not satisfied.

Based on the above, applicants have not satisfied all the requirements for a grantable petition under 37 CFR 1.10(d). Accordingly, it is not appropriate, on the present record, to accord the application a corrected filing date of 18 December 2000. Because the 19 December 2000 filing date remains in effect, it would not be appropriate at this time to withdraw the holding of abandonment.

B. Request For Refund

37 CFR 1.26 permits an applicant who has mistakenly paid an excess fee to seek a refund for such payment. Where an applicant has paid a full fee and subsequently seeks a refund based on small entity status, 37 CFR 1.28(a) states that the refund request and an adequate assertion of small entity status under 37 CFR 1.27(c) must be submitted within three months of the payment of the full fee.

Here, the Request For Refund included an acceptable assertion of small entity status. However, the Request For Refund was not filed until 16 April 2001, more than three months after applicant's 18 December 2000 payment of the full fees. 37 CFR 1.28(a) expressly states that the three month time period cannot be extended. Accordingly, applicant is not entitled to the requested refund.

C. **Response To Notification Of Abandonment**

The "Response To Notification Of Abandonment" filed 25 May 2001 seeks rescission of the Notification Of Abandonment and correction of the filing date for the national stage materials to 18 December 2000, that is, the same relief requested in the petition under 37 CFR 1.10(d). This Response is premised on the petition under 37 CFR 1.10(d) which, as set forth above, is not grantable on the present record.

CONCLUSION

Applicant's petition under 37 CFR 1.10(d), requesting that the national stage application papers be accorded a filing date of 18 December 2000, is **DISMISSED** without prejudice.

Applicant's Request For Refund filed 16 April 2001 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" and include the required materials discussed above.

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 Cole
PCT Legal Examiner
PCT Legal Office

RMR/RC:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd, 7th Floor
Los Angeles, CA 90025-1026

In re Application of	:	
FOUNTAINE, Howard	:	DECISION ON RENEWED
U.S. Application No.: 09/720,064	:	PETITION UNDER 37 CFR 1.10(d),
PCT No.: PCT/NZ99/00078	:	
International Filing Date: 10 June 1999	:	
Priority Date: 18 June 1998	:	
Attorney's Docket No.: 37261PO64	:	
For: A MULTI-LINK CONNECTOR	:	

In a decision mailed on 26 September 2001, this Office dismissed applicant's petition under 37 CFR 1.10(d) for failure to satisfy all the requirements of a grantable petition. Specifically, applicant had not satisfied the requirements of 37 CFR 1.10(d)(3). The decision stated that applicant was required to submit the following:

> further evidence setting forth the time at which the [Express Mail Log] entry was made, the specifics of the deposit (i.e., drop-box or counter), and, if the package was deposited at the counter, an explanation as to why [Office Services Clerk Barbara Webster] did not identify the "date in" error at that time.

On 17 January 2002, the USPTO received the "Renewed Petition Under 37 CFR 1.10" considered herein. Based on the certification under 37 CFR 1.8 that the Renewed Petition was mailed on 20 November 2001, the Renewed Petition is considered a timely response to the previous decision.

The Renewed Petition includes a "Supplemental Declaration Of Barbara Webster." In the Supplemental Declaration, Ms. Webster confirms that her log entry was made "after the deposit of the package, and within one business day." She also confirms that the package was hand delivered to a USPS employee, and she provides an acceptable explanation as to why she did not immediately observe the "date in" error. In combination, with applicant's previous submission, 37 CFR 1.10(d)(3) is now satisfied. Applicant has therefore now satisfied all the requirements for a grantable petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

The filing date for the national stage papers, including the payment of the basic national fee, is corrected to 18 December 2000.

#11

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CLAIRIANT CORPORATION
Intellectual Property Department
4000 Monroe Road
Charlotte, NC 28205

In re Application of :
DANNER, Bernard *et al* :
U.S. Application No.: 09/720,065 : **DECISION**
PCT No.: PCT/IB99/01119 :
Int. Filing Date: 16 June 1999 : **ON PETITION UNDER**
Priority Date: 18 June 1998 :
Docket No.: 1998CH015 : **37 CFR 1.10(d)**
For: AQUEOUS DISPERSIONS, THEIR :
PRODUCTION AND USE :

This decision is in response to applicants' "Petition to Correct Correspondence Filing Date for "Date-In" Incorrectly Entered on Express Mail Label (37 C.F.R. 1.10(d)" ("Pet.") filed via facsimile on 23 April 2003. No petition fee is required.

BACKGROUND

Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 using Express Mail and the national stage papers were stamped as received on 19 December 2000 corresponding to the "Date In" entry on the Express Mail receipt.

On 06 March 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) advising applicants that the 35 U.S.C. 102(e) date and 35 U.S.C. 371 requirements and were satisfied on 19 December 2000.

On 23 April 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, a statement by Vicki Sgro; a copy of the Express Mail mailing label for EK126136119US; a copy of the "Certification Under 37 CFR 1.10"; and a copy of a USPS Track/Confirm report for Express Mail EK126136119US.

On 05 June 2003, applicants submitted via facsimile a copy of the date-stamped postcard receipt for the documents stamped as received on 19 December 2000.

DISCUSSION

Certification Under 37 CFR 1.10 Filed With National Stage Papers

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO.

Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped receipt for the documents submitted as received on 19 December 2000. The application is identified with the applicant name, docket number and title. The receipt clearly identifies that a "Certification Under 37 CFR 1.10 (Express Mail)" was received as part of the documents in the USPTO. The postcard receipt is stamped "JC02 Rec'd PCT/PTO 19 DEC 2000" across its face.

Accordingly, applicants have provided *prima facie* evidence that the "Certification Under 37 CFR 1.10" was included with the documents received on 19 December 2000.

Petition Under 37 CFR 1.10(d)

A review of the above-captioned application reveals that the original Express Mail receipt EK126136119US is located in the file and the "Date In" box on the receipt indicates "12 19 00." The label is also stamped "USPTO MAIL CENTER DEC 19 2000 EXPRESS MAIL DATE IN." Accordingly, it was appropriate for the USPTO to give this application a filing date of 19 December 2000 in meeting 35 U.S.C. 371 requirements. Nonetheless, applicants claim that the above-identified application should be accorded a filing date of 18 December 2000 because it that was "the date the correspondence was deposited with the U.S.P.S. with proper postage." Pet. at # 1.

Any correspondence received by the United States Patent and Trademark Office delivered by "Express Mail" will be considered filed in the Office on the date of deposit with the USPS. 37 CFR 1.10(a). Also, 37 CFR 1.10(d) allows that:

> (d) 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 the 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 deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

In this case, the instant petition is considered to be filed promptly. Further, a review of the above-identified international application verifies that the "Certification Under 37 CFR 1.10" submitted with the national stage papers included the Express Mail mailing label number EK126136119US on its face. Thus, items (1) and (2) of 37 CFR 1.10(d) are satisfied.

Concerning item (3), applicants submitted a copy of the USPS Track/Confirm record for Express Mail No. EK126136119US which shows that the item was received on "December 18 9:23 pm" in Charlotte, NC. Further, a review of the application shows that the "Certification Under 37 CFR 1.10" also indicates a "Date of Mailing" of 18 December 2000. This evidence from the USPS is sufficient to satisfy item (3).

Consequently, it appears that the date listed by USPS personnel on the "Date In" box of the Express Mail Label is incorrect. USPS records clearly show that the documents were deposited with the USPS on 18 December 2000, not 19 December 2000.

CONCLUSION

For the reasons listed above, applicants' petition to correct the filing date pursuant to 37 CFR 1.10(d) is **GRANTED**.

Accordingly, the Notification of Acceptance mailed 06 March 2001 is inaccurate and is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 June 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **18 December 2000.**

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for mailing a new Form PCT/DO/EO/903 advising applicants that the 35 U.S.C. 371 requirements were satisfied on 18 December 2000, and for mailing a corrected filing receipt. Then, the application will be sent to Tech Center 1700 (Art Unit 1712) for further examination.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Paper No. 11

KAREN L ELBING
CLARK & ELBING
176 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Michael Hallek et al :
Application No. 09/720,066 : NOTICE
Filed: October 19, 2001 :
Attorney Docket No. 50125/019001 :

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**.

The file does not indicate a change of address has been submitted. 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 notice; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1636.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: CLARK & ELBING
101 FEDERAL STREET
BOSTON, MA 02110

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Husch Blackwell Sanders LLP Welsh & Katz
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22ND FLOOR
CHICAGO IL 60606

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SEP 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,320,109 :
Issue Date: January 15, 2008 :
Application No. 09/720,075 : DECISION ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 81337 :

This is a decision on the Request for Certificate of Correction under 37 CFR 1.323, filed February 28, 2008, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form (PTO/SB-44) accompanied the petition.

The petition under 37 CFR 3.81 is **DISMISSED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "YCD LTD." To "YCD Multimedia, LTD.".

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.

U.S. Patent and Trademark Office assignments records disclose that an assignment from YCD LTD to YCD Multimedia, LTD. was recorded on February 28, 2008. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment

was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Gerald T. Shekleton
Welsh & Katz, Ltd.
120 South Riverside Plaza, 22nd Floor
Chicago, IL 60606

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Paper No. 23

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of
Andre de Haan et al
Application No. 09/720,131
Filed: May 17, 2001
Attorney Docket No. MBHB00-1265

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 23,2002, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 24, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on April 28, 2003.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 1761 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Kate H. Murashige
Morrison & Foester LLP
3811 Valley Centre Drive, Suite 500
San Diego, CA 92130

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ARLINGTON, VA 22203-1808

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APR 0 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,045,160 :
Issue Date: May 16, 2006 :
Application No. 09/720,131 : ON PETITION
Filed: May 17, 2001 :
Attorney Docket No. 251502008200 :

This is a decision on the petition, filed June 16, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **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 Certificates 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.

Fee Processing

(For Petitions Use Only)

App. No./Pat No.
7045160
Atty Docket No./Cust. No.
251502008200
Paper Rec'd Date
6/16/06
Form Completed
3/30/07

Check Amt. #1

Check Amt. #2

Deposit Acct.

Credit Card ☐ (See attached)

Refund ☐ (See attached)

(PTO Employee - please circle the code(s) and amount(s) to be refunded/credited)

Fee Code	Fee Amt.	Paper #

Change App No./Pat. No. ☐

From

To

Change Fee Code ☒

From Code	Amount
1464	$1,330

To Code	Amount	Paper #
1808	$130	wfee

Special Instructions:

SDB

Initials (PTO Employee) **Initials (Contractor)** **Date Processed**

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Eric J. Gash
Seed Intellectual Property Law Group PLLC
6300 Columbia Center
701 5th Avenue
Seattle, Washington 98104-7092

In re Application of :
MEYER, Jacques :
Application No.: 09/720,132 : DECISION ON PETITION
PCT No.: PCT/FR00/00477 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 February 2000 :
Priority Date: 26 February 1999 :
Attorney Docket No.: 859063.464 :
For: MULTICARRIER SIGNAL RECEIVER WITH CORRECTION OF EQUALIZATION FAULTS INDUCED BY THE TRF WINDOW DISPLACEMENTS

The petition to revive under 37 CFR 1.137(b) filed 19 December 2000 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have now submitted the basic national fee of $860 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.

Deposit Account No.19-1090 has been charged a $130.00 surcharge fee under 37 CFR 1. 492(e) for supplying an oath or declaration later than 20 months from the earliest claimed priority date and a $130 processing under 37 CFR 1.492(f) for supplying an English translation later than 20 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **19 December 2000**.

Anthony Smith

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

IRA J. SCHAEFER
CHADBOURNE & PARKE
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Akito Nishimura et al :
Application No. 09/720,235 : ON PETITION
Filed: December 20, 2000 :
Attorney Docket No. 14998-255 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 2800 for further processing.

Irvin Dingle
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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030105

Ira J Schaefer
Chadbourne & Parke
30 Rockefeller Plaza
New York NY 10112

APR 28 2005

In re Application of:
Nishimura et al.
Serial No.: 09/720,235
Filed: December 20, 2000
Attorney Docket No.: **14998-255**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on May 19, 2003. A Notice of Abandonment was mailed on November 21, 2003.

A review of the written record indicates that a proper response to the Office action was previously filed on November 18, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Since the timely filed amendment places the application in condition for allowance, the abandonment of the application was premature. Therefore, the application was not abandoned in fact. For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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030105

Ira J Schaefer
Chadbourne & Parke
30 Rockefeller Plaza
New York NY 10112

APR 28 2005

In re Application of:
Nishimura et al.
Serial No.: 09/720,235
Filed: December 20, 2000
Attorney Docket No.: **14998-255**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on May 19, 2003. A Notice of Abandonment was mailed on November 21, 2003.

A review of the written record indicates that a proper response to the Office action was previously filed on November 18, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Since the timely filed amendment places the application in condition for allowance, the abandonment of the application was premature. Therefore, the application was not abandoned in fact. For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NEW YORK NY 10112

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Akito Nishimura et al :
Application No. 09/720,235 : ON PETITION
Filed: December 20, 2000 :
Attorney Docket No. 14998-255 :

This is a decision on the petition, filed January 19, 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 4, 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 2839 will consider the request for continued examination under 37 CFR 1.114.

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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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

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Director's Office
Office of Patent Publication

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

In re Application of :
Hartwig Ohmstede :
Application No. 09/720,239 :
Filed: February 12, 2001 :
Attorney Docket No. 449122001400 :

DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment received via facsimile transmission, September 26, 2002, for 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 for Withdrawal of Holding of Abandonment."

The application was held abandoned for failure to timely pay the issue fee on or before June 25, 2002.

As evidence of the timely submission of the Issue Fee, petitioner has submitted copies of Part B – Fee(s) Transmittal, and return post-card, which, which acknowledges receipt of the Issue Fee on June 14, 2002, by the Patent and Trademark Office, (PTO).

The PTO acknowledges receipt of the afore-mentioned document on June 14, 2002. However, upon review of the application it was revealed that the Deposit Account No. was not included on the Issue Fee Transmittal.

The holding of abandonment was proper in view of petitioner's failure to include the deposit account number on Part B of the Issue Fee Transmittal Form. Without the inclusion of the deposit account number, there was no general authorization to charge the issue fee.

37 CFR 1.25(b), which was in effect at the time of the mailing of the Notice of Allowance, permitted blanket authorization to charge all or only certain fees.

37 CFR 1.25(b) states:

> "A general authorization to charge all fee, or only certain fees, set forth in 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed."

Petitioner should note the new rules pertaining to authorizations of issue fee payments effective November 7, 2000. Note 65 FR 5704, September 20, 2000, and 37 CFR 1.311.

The petitioner should consider petitioning the Commissioner as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or (a) 1203 of the Official Gazette 63, October 21, 1997.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must include the following:

  (1) The reply required to the outstanding Office action or notice, unless previously filed.
  (2) The petition fee set forth in § 1.17(l);
  (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

  With respect to an application filed before June 8, 1995, any petition under § 1.137(a) that is filed more than six months after the abandonment date must —according to § 1.137(c)—be accompanied by a terminal disclaimer with disclaimer fee.

■ Under 37 CFR 1.137(a), a petition for the revival of an ***unintentionally*** abandoned application must include the following:

(1) The reply required to the outstanding Office action or notice, unless previously filed.
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, DC 20231
By facsimile:	703-308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Rm. 3C23 2201 South Park Place Arlington, VA

Telephone inquires concerning this matter may be directed to the Office of Petitions at 703-305-9282.

Frederick E. Briscoe
Legal Instruments Examiner
Office of the Director
Office of Patent Publication

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MORRISON & FOERSTER LLP
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OFFICE OF PETITIONS

In re Application of :
Hartwig Ohmstede :
Application No. 09/720,239 : DECISION ON PETITION
Filed: 02/12/2001 :
Attorney Docket No. 449122001400 :

This is a decision on the renewed petition under 37 CFR 1.181, filed March 21, 2003, and supplemented on December 1, 2005, and January 8, 2007, to withdraw the holding of abandonment for the above-identified application. The application file was recently forwarded to the Office of Petitions for a decision on the merits. The Office promptly reviewed the petition upon its receipt of the file. The Office sincerely apologizes for the delay.

This application became abandoned for failure to pay the issue fee timely as required by the Notice of Allowance, mailed March 25, 2002. On August 15, 2002, the Office mailed a Notice of Abandonment. On September 26, 2002, applicant submitted a petition to withdraw the holding of abandonment, which was dismissed by the decision of January 23, 2003. On March 21, 2003, applicant filed the present renewed petition, which was supplemented on December 1, 2005, and January 8, 2007.

The record indicates that on June 14, 2002, applicant submitted the Part B - Fee(s) Transmittal in response to the Notice of Allowance. Applicant checked box 4b on the Part B – Fee(s) Transmittal, authorizing the Office to charge the required fee(s), or credit any overpayment, to a Deposit Account, but did not indicate the Deposit Account Number on the Transmittal. The Office notes that the application file contained a general authorization, filed prior to the mailing of the Notice of Allowance, to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 03-1952.

Applicant asserted that the previously filed general authorization in combination with the checked authorization box on the Part B – Fee(s) Transmittal met the requirements of 37 CFR 1.25. Applicants requested that the Office withdraw the holding of abandonment because applicant submitted a timely and proper authorization to charge the issue fee to Deposit Account No. 03-1952.

Pursuant to 37 CFR 1.311(b)(2), as it existed on June 14, 2002, the submission of a completed Part B - Fee(s) Transmittal form operated as a request to charge the issue fee to any deposit account identified in a previously filed general authorization to charge fees. This interpretation was made clear in the final rule creating 37 CFR 1.311(b)(2), which indicated:

> Where an attempt is made to pay the issue fee but an incorrect amount is submitted, 1.311(b)(1), or where the Office's issue fee transmittal form (currently PTOL-85(B)) is completed by applicant and submitted, 1.311(b)(2), in reply to a notice of allowance, an exception will be made. Such submissions will operate as a request to charge the issue fee to any deposit account identified in a previously filed authorization to charge fees, 1.311(b).
>
> The limitation on authorization to charge issue fees to a deposit account under 1.311(b) will apply only where a Notice of Allowance requiring the issue fee has been mailed on or after the date that is 60 days after publication in the Federal Register.

65 Fed. Reg. 54603, 54647 (September 8, 2000).

Specifically, the preamble of newly created 37 CFR 1.311, effective September 8, 2000, stated: "Where it is clear that an applicant actually intends to pay the issue fee such as by ... completing the issue fee transmittal form provided by the Office with the notice of allowance, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act a payment of the correct issue fee."

In view of above, the petition to withdraw the holding of abandonment is **GRANTED**. The application is hereby restored to pending status. The Office will charge the $1,280.00 issue fee to Deposit Account No. 03-1952, as authorized.

The application file is being forwarded to the Office of Patent Publications for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries concerning this matter 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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MORRISON & FOERSTER LLP
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SUITE 400
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JUL 28 2009

OFFICE OF PETITIONS

In re Application of :
Hartwig Ohmstede :
Application No. 09/720,239 : DECISION ON PETITION
Filed: February 12, 2001 : TO WITHDRAW
Attorney Docket No. 1998P4119 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed June 28, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 25227 has been revoked by the assignee of the patent application on August 20, 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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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AUG 2 6 2004

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WK
Paper Number __

In re application of :
Wolfgang Gunther et al. : DECISION ON
Serial No. 09/720,257 : PETITION
Filed: January 9, 2001 :
For: FUEL COMPOSITIONS CONTAINING :
PROPOXILATETINGS :

This is a decision on the REQUEST FOR SUSPENSION, filed April 16, 2004, which has been accepted as a petition under 37 C.F.R. 1.103(b). The petition requests a suspension of action, for six(6) months. The suspension of action is necessary because Applicants are in the process of preparing additional data.

The petition is **GRANTED**.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical an Materials Engineering

Kirsten A. Grueneberg
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

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Mailed: 4/25/05

WK
Paper Number __

In re application of :
Wolfgang Gunther et al. : DECISION ON
Serial No. 09/720,257 : PETITION
Filed: January 9, 2001 :
For: FUEL COMPOSITIONS CONTAINING :
PROPOXILATETINGS :

This is a decision on the REQUEST FOR SUSPENSION, filed April 11, 2005, which has been accepted as a petition under 37 C.F.R. 1.103(a). The petition requests a suspension of action, for two (2) months. The suspension of action is necessary because Applicants are in the process of preparing additional data as discussed with the Examiner of record on March 18, 2003.

A non-final office action was mailed on 4/16/03. Applicant responded on 10/16/03 along with a petition for a request for suspension for 6 months, which was granted. Applicants have further requested a 6 month suspension on 4/16/04 and 10/18/04.

Absent a showing of good and sufficient cause for suspension of action, the request for suspension is denied.

The petition is **DENIED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical an Materials Engineering

Kirsten A. Grueneberg
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

MAY 25 2001

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Washington, D.C. 20231
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BAKER & BOTTS LLP
30 Rockefeller Plaza
New York, N.Y. 10112-4498

In re Application of :
FUHR, Günter *et al* :
Application No.: 09/720,275 :
PCT No.: PCT/EP99/04470 : DECISION ON
Int. Filing Date: 28 June 1999 : PETITION UNDER
Priority Date: 26 June 1998 : 37 CFR 1.182
Attorney's Docket No.: A33828 PCT USA :
For: ELECTRODE ARRANGEMENT FOR :
GENERATING FUNCTIONAL FIELD :
BARRIERS IN MICROSYSTEMS :

This decision is in response to applicants' "Letter" filed on 06 March 2001 requesting to correct the U.S. application number on documents submitted 22 February 2001. This is treated as a petition under 37 CFR 1.182. The petition fee has been charged to counsel's Deposit Account 02-4377 as authorized.

BACKGROUND

On 08 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 and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided.

On 22 February 2001, applicants filed a "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office" ("Response") which also contained an executed declaration, and a check of $130.00 for the surcharge fee. However, applicants erroneously listed the U.S. application number on the Response as 09/720,141.

On 06 March 2001, applicants filed the instant petition which was accompanied by, *inter alia*, copies of the documents filed 22 February 2001 including a stamped postcard receipt for those documents.

DISCUSSION

A review of the documents submitted with the instant petition reveals that applicants used the wrong U.S. application number on the Response filed on 22 February 2001. Applicants designated the above-captioned application as U.S. application number "09/720,141," instead of "09/720,275."

A search of U.S. application number "09/720,141" resulted in locating the Response and executed declaration for the above-captioned application. These documents were submitted on 22 February 2001. Applicants' petition has been treated as a petition to remove these documents and place them in the above-captioned application. Applicants' petition is granted. The petition fee of $130.00 has been charged to Deposit Account No. 02-4377 as authorized. Furthermore, the surcharge fee has been removed from U.S. application number "09/720,141" and placed in the above-captioned file's financial records.

Applicants are reminded to use only U.S. application number **"09/720,275"** for all future correspondence regarding this application.

Applicants' claim for priority under 35 U.S.C. 119 filed 09 March 2001 based upon German application Nos. 198 28 626.0, 198 28 919.7, 198 53 658.5, and 198 60 118.2 are already listed in the international publication and hereby acknowledged.

CONCLUSION

Since the declaration has been located and is in compliance with 37 CFR 1.497, applicants' petition under 37 CFR 1.182 is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 28 June 1999, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of **22 February 2001**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

JUL 26 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of ARMBRUSTER et al :
U.S. Application No.: 09/720,338 :
Int. Application No.: PCT/EP99/04418 : DECISION ON PETITION
Int. Filing Date: 25 June 1999 :
Priority Date: 25 June 1998 : UNDER 37 CFR 1.182
Attorney Docket No.: 0756-0118P :
For: FUNCTIONAL VITAMIN D DERIVATIVES :
AND A METHOD FOR DETERMINING :
25-HYDROXY-VITAMIN D AND :
1α,25-DIHYDROXY-VITAMIN D :

This is in response to applicants' "Amendment, Petition and Fee for Name Change in -Nonprovisional Application- Declaration (37 C.F.R. § 1.182)" filed 27 April 2001.

BACKGROUND

On 25 June 1999, applicants filed international application PCT/EP99/04418, which claimed priority of an earlier Germany application filed 25 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 January 2000, 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 December 2000.

On 22 December 2000, applicants 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 15 February 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 February 2001, applicants filed four executed declarations.

On 21 March 2001, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declarations filed on 15 February 2001 are not in compliance with 37 CFR 1.497.

On 27 April 2001, applicants filed the present petition. The petition states that the name of the third inventor has changed from Jens Schwing to Jens Tampe. The petition further states that it is accompanied by a certified copy of the court order whereby the purported name change was effected.

DISCUSSION

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the present case, applicants have filed a petition under 37 CFR 1.182. The requisite $130.00 petition fee will be charged to Deposit Account No. 02-2448 as authorized by the petition.

The copy of the purported court order submitted with the petition is insufficient because it is not an original certified document. It is further noted that applicants have supplied only a partial translation of the purported court order.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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. A proper response must include either: 1) an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or 2) an original certified copy of the court order with a complete translation. 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 1.182." No additional petition fee is required.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

NOV 2 7 2001

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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of ARMBRUSTER et al	:	
U.S. Application No.: 09/720,338	:	
Int. Application No.: PCT/EP99/04418	:	DECISION ON PETITION
Int. Filing Date: 25 June 1999	:	
Priority Date: 25 June 1998	:	UNDER 37 CFR 1.182
Attorney Docket No.: 0756-0118P	:	
For: FUNCTIONAL VITAMIN D DERIVATIVES AND A METHOD FOR DETERMINING 25-HYDROXY-VITAMIN D AND 1α,25-DIHYDROXY-VITAMIN D	:	

This is in response to applicants' "Renewed Petition under 37 C.F.R. § 1.182)" filed 26 September 2001.

BACKGROUND

On 25 June 1999, applicants filed international application PCT/EP99/04418, which claimed priority of an earlier Germany application filed 25 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 January 2000, 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 December 2000.

On 22 December 2000, applicants 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 15 February 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 February 2001, applicants filed four executed declarations.

On 21 March 2001, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declarations filed on 15 February 2001 are not in compliance with 37 CFR 1.497.

On 27 April 2001, applicants filed a petition under 37 CFR 1.182, which stated that the name of the third inventor has changed from Jens Schwing to Jens Tampe. The petition further stated that it is accompanied by a certified copy of the court order whereby the purported name change was effected.

On 26 July 2001, the PCT Legal Office of the USPTO mailed a decision dismissing the 27 April 2001 petition on grounds that the copy of the purported court order is not an original certified document.

On 26 September 2001, applicants filed the present renewed petition along with an affidavit signed by Jens Schwing and Jens Tampe.

DISCUSSION

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the present case, applicants have submitted an affidavit signed with both names, Jens Schwing and Jens Tampe, setting forth that Jens Schwing has changed his name to Jens Tampe and setting forth the procedure by which the name change was effected. The appropriate petition fee has been received.

The papers have been reviewed, and the 20 February 2001 declaration signed by Jens Tampe is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The Notification of a Defective Response (Form PCT/DO/EO/916) mailed 21 March 2001 is hereby VACATED.

The application has an International Filing Date of 25 June 1999 and a date under 35 U.S.C. 371 of 20 February 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUITE 1800
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Ross et al.	:	
Application No. 09/720,382	:	ON PETITION
Filed: March 7, 2001	:	
Attorney Docket No. TC 2002.00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 16, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 17, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Schwegman, Lundberg, Woessner &
Kluth, PA
PO Box 2938
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of

Stewart, et al. :

Application No. 09/720,416

: DECISION ON PETITION

Filed: August 2, 2001

:

Attorney Docket No. NIH-05082

This is a decision on the petition under 37 CFR 1.137(b), filed, November 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed May 9, 2003, which set a shortened period for reply of one (1) monthsfrom its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 10, 2003. A Notice of Abandonment was mailed December 17, 2003. A petition under 37 CFR 1.137(b) was first filed on February 28, 2007, and dismissed by a decision mailed September 28, 2007

The election filed November 6, 2007, is noted.

The application is being forwarded to Technology Center 1600, GAU 1646 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 15

Schwegman, Lundberg, Woessner & Kluth, PA
PO Box 2938
Minneapolis, MN 55402

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of
Stewart, et al.
Application No.: 09/720,416
Filed: August 2, 2001
Attorney Docket No: NIH-05082

: ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 28, 2007.

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 application became abandoned for failure to respond in a timely manner to the election/restriction requirement mailed May 9, 2003. The notice set a shortened period for reply of one-month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was received within the allowable period and the application became abandoned on June 10, 2003. A Notice of Abandonment was mailed on December 17, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) and (3) above.

As to item (1), a reply to the election/restriction requirement was not found with petition. The renewed petition must be accompanied by a response to the election/restriction requirement. A copy of the election restriction requirement is enclosed for petitioner's convenience.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) **further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application**; and
>
> (B) **a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).<**
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
>
> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
>
> In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not satisfactory explanation for extended delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy—Restriction/Election Requirement mailed May 9, 2003

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

John A. Castellano
BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, Virginia 22040

#8

In re Application of:	
Brain Bruun, et al.	DECISION ON
PCT Application No.: PCT/DK99/00339	
International Filing Date: 18 June 1999	PETITION
Priority Date: 23 June 1998	
US Application No.: 09/720,468	UNDER 37 CFR 1.182
Attorney's Docket No.: 0459-0527P	
For: CONVEYOR SYSTEM WITH BUFFER ARRANGEMENT	

This is in response to the "Response to Notification of a Defective Oath or Declaration" filed 23 April 2001. The "Response" is being treated as a petition under 37 CFR 1.182 because applicant is requesting a change in an inventor's name which, according to MPEP 605.04(c), is petitionable under 37 CFR 1.182.

BACKGROUND

On 18 June 1999, applicant filed international application PCTDK99/00339, claiming priority of Denmark application PA 1998 00813, filed 23 June 1998. A Demand for international preliminary examination, in which the United States was elected, was timely filed 24 January 2000.

On 22 December 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.

On 12 February 2001, the United States Patent and Trademark Office (PTO) mailed applicant 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). On 22 March 2001, United States Patent and Trademark Office (PTO) mailed a "Notification of a Defective Oath or Declaration" (Form PCT/DO/EO/917) which indicated that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required because the second inventor's last name is different than the international application.

On 07 February 2001, applicant filed a "Letter Submitting Documents For Completion of an application" in response to Notification of a Defective Oath or Declaration." The "Letter"

included the original declaration of "Brian Lynge" changed by hand to Brian Lynge Sorensen.

DISCUSSION

MPEP section 605.04(c) states, in part, the following:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The petition did not include the appropriate petition fee but authorization to charge such a fee is contained in the Transmittal Letter of 23 April 2001

The "Letter" filed on 23 April 2001, applicant states that "second inventors full name was not properly listed on a International application as is evident from the front page of PCT application WO 99/670". The petition does not submit any explanation of how such an error occurred and supporting documentation. Such an explanation should be in the form of a statement from someone having firsthand knowledge of the error, and should be accompanied by a statement by Mr. Sorensen setting forth that the error occurred without any intent on his part. Thus, the requirements of a petition under 37 CFR 1.182 for correction of the inventor's name have not been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 requesting to change the name of inventor Brian Lynge to Brian Lynge Sorensen is DISMISSED without prejudice.

The fee of $130.00 for this petition under 37 CFR 1.182 has be charged to Deposit Account No. 13-3848.

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 1.182." No additional petition fee is required. Failure to properly respond will result in abandonment of the application as to the United States.

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.

KS
Kamini Shah
PCT Legal Detailee
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

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Washington, D.C. 20231
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#11

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of BRUUN et al
U.S. Application No.: 09/720,468
Int. Application No.: PCT/DK99/00339
Int. Filing Date: 18 June 1999
Priority Date: 23 June 1998
Attorney Docket No.: 0459-0527P
For: CONVEYOR SYSTEM WITH BUFFER ARRANGEMENT

DECISION

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.182" filed 25 September 2001.[1]

BACKGROUND

On 18 June 1999, applicants filed international application PCT/DK99/00339, which claimed priority of an earlier Denmark application filed 23 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 January 2000, 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 26 December 2000 (23 December 2000 was a Saturday preceding a Monday holiday).

On 22 December 2000, applicants 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 07 February 2001, applicants filed an executed declaration.

---

[1] It is noted that applicants have filed a "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)". Because the present application is not abandoned, the petition to revive will not be considered, and the accompanying $1,240.00 petition fee will be refunded to Deposit Account No. 02-2448.

On 12 February 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 22 March 2001, the DO/EO/US mailed a new Notification of Missing Requirements along with a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917), which indicated that the name of the second inventor listed on the declaration filed 07 February 2001 does not match that listed on the international application.

On 23 April 2001, applicants filed a petition to change the inventor's name under 37 CFR 1.182.

On 09 July 2001, this Office mailed a decision dismissing the 23 April 2001 petition on grounds that the petition did not adequately demonstrate how the error arose and that the error occurred without any deceptive intent.

On 25 September 2001, applicants filed the present renewed petition. The renewed petition states that it is accompanied by the affidavit of inventor Brian Lynge Sorensen.

DISCUSSION

The second inventor's name is listed on the declaration as "Brian Lynge Sorensen", while the second inventor's name is listed on the international application as "Brian Lynge". Applicants have furnished an affidavit signed by inventor Brian Lynge Sorensen which states how the error occurred and which indicates that the error was inadvertent and made without deceptive intent.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date of 18 June 1999 and a date under 35 U.S.C. 371 of 07 February 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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Stephen B. Salai
Harter, Secrest & Emery LLP
700 Midtown Tower
Rochester, NY 14604

Renewed Petition: 3/4/02

In re Application of
Vozhdaev, Yevgeny, et al.
Application No.: 09/720,494
PCT No.: PCT/EP99/03632
Int. Filing Date: 26 May 1999
Priority Date: 26 May 1998
Docket No.: 87528.000002
For: PITOT-STATIC TUBE

DECISION
ON PETITION UNDER
37 CFR 1.10(c)

This decision is in response to applicants' "Response to Notice of Abandonment" filed 26 February 2001. This is treated as a petition under 37 CFR 1.10(c). No petition fee is required. Petition is **DISMISSED**.

BACKGROUND

On 26 May 1999, applicants filed international application PCT/EP99/03632, which claimed a priority date of 26 May 1998. A copy of the international application was transmitted to the United State Patent and Trademark Office from the International Bureau (IB) on 02 December 1999. On 19 November 1999, applicants filed a demand for International Preliminary Examination, in which the United States was elected. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 26 November 2000.

On 29 December 2000, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee and a preliminary amendment.

On 02 February 2001, the United State Designated /Elected Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the applicants failed to provide the full U.S. Basic National Fee by thirty months.

On 26 February 2001, applicants filed the instant Response to Notice of Abandonment accompanied by, *inter alia*, a transmittal letter with Express Mail label EL603845135US affixed and two pages of printouts from the United States Postal Service (USPS) website showing the delivery history of the package with the earlier mentioned Express Mail label.

DISCUSSION

In the instant petition, applicants request that the filing date of application No. 09/720,494 be amended to 24 November 2000. The requirements for a petition to correct a filing date based

on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (c) 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 there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> > (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> >
> > (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;" and
> >
> > (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Element (1) has been met. The petition was filed within a month of mailing of the Notification of Abandonment.

Element (3) has not been met. Applicants have not provided a copy of the original Express Mail label, showing the "date-in." Applicants have provided printouts of the USPS web page showing the transportation record of the package marked with Express Mail label number EL603845135US, but 37 CFR 1.10(c)(3) requires the Express Mail mailing label showing the "date in."

Element (2) has not been met. The Express Mail label number must be placed on the correspondence before it is mailed to the Office. The correspondence in the file does not have the Express Mail label number noted on it. Specifically, the transmittal letter sent to the Office, marked in on 29 December 2000, does not have an Express Mail label number noted on it. The transmittal letter "copy" that accompanied this petition has a mailing label affixed, but as that number is not reflected on the transmittal letter in the file, it clearly was not affixed prior to the original mailing as required by 37 CFR 1.10(c)(2). "[R]elief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e)," "if the number of the mailing label did not appear on the correspondence as originally filed." MPEP § 513.

"Since the filing of correspondence under 37 CFR 1.10 without the number of the 'Express Mail' label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." MPEP § 513.

Accordingly, issuance of a Notification of Abandonment (Form PCT/DO/EO/909) was appropriate. Applicants may wish to consider filing of a petition under 37 CFR 1.137(b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.10(c) to correct the filing date is **DISMISSED** without prejudice.

The application remains abandoned.

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(c)."

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 Office of PCT Legal Administration.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Administration

MAR 27 2002

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#6

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Stephen B. Salai
Harter, Secrest & Emery LLP
700 Midtown Tower
Rochester, NY 14604

In re Application of
Vozhdaev, Yevgeny, et al.
Application No.: 09/720,494
PCT No.: PCT/EP99/03632
Int. Filing Date: 26 May 1999
Priority Date: 26 May 1998
Docket No.: 87528.000002
For: PITOT-STATIC TUBE

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Unintentionally Abandoned Under 37 C.F.R. 1.137(b)," filed 04 March 2002.

BACKGROUND

On 26 May 1999, applicants filed international application PCT/EP99/03632, which claimed a priority date of 26 May 1998. A copy of the international application was transmitted to the United State Patent and Trademark Office from the International Bureau (IB) on 02 December 1999. On 19 November 1999, applicants filed a demand for International Preliminary Examination, in which the United States was elected. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 26 November 2000.

On 29 December 2000, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee and a preliminary amendment.

On 02 February 2001, the United State Designated /Elected Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the applicants failed to provide the full U.S. Basic National Fee by thirty months.

On 26 February 2001, applicants filed Response to Notice of Abandonment, which was treated as a petition under 37 CFR 1.10(c).

On 04 January 2002, the Office mailed Decision On Petition Under 37 CFR 1.10(c), dismissing the petition.

On 04 March 2002, applicants filed the instant petition to revive accompanied by, *inter alia*, the petition fee, and copies of the earlier petition decision and the Notification of Abandonment (PCT/DO/EO/909).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants have paid both the petition fee and the basic national fee. A terminal disclaimer is not required as application was filed on 26 May 1999. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration are required.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

22 OCT 2002

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WASHINGTON, D.C. 20231
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#5

Shahan Islam
Rosenman & Colin
575 Madison Avenue
New York, NY 10022-2585

In re Application of	:	DECISION ON
CURTIS, Keith Edwin, et al.	:	
Application No.: 09/720,570	:	PETITIONS UNDER
PCT No.: PCT/AU99/00511	:	
Int. Filing Date: 24 June 1999	:	37 CFR 1.183
Priority Date: 24 June 1998	:	
Attorney Docket No.: 3128/FBR	:	AND
For: VIRTUAL EPROM SIMULATOR APPARATUS	:	37 CFR 1.137(b)

This is a decision on applicants' "Petition For Revival of an Applicatio[n] for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 23 July 2002.

BACKGROUND

On 24 June 1999, applicants filed international application PCT/AU99/00511, which claimed a priority date of 24 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 January 2000, within 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 26 December 2000 (24 December 2000 was a Sunday and 25 December 2000 was a holiday).

On 21 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.

On 12 March 2001, the USPTO mailed a Notification of Missing Requirements (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.

On 30 May 2002, the Office mailed a Notice of Abandonment indicating the application went abandoned for failure to timely reply to the Notice to File Missing Parts mailed 12 March 2001.

On 23 July 2002, applicants submitted the instant petitions under 37 CFR 1.137(b) and 37 CFR 1.183, which were accompanied by a statement from Shahan Islam.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants have made the required statement and have paid the petition fee. A terminal disclaimer is not required as the international application was filed on or after 08 June 1995. However, applicants' reply is deficient. The required reply is an oath or declaration in compliance 37 CFR 1.497 and if the inventors refuse to execute the oath or declaration or cannot be reached after a diligent effort, as alleged, a petition under 37 CFR 1.47(b). Applicants have filed a petition for suspension of the rules under 37 CFR 1.183. Applicants have not explained why a petition under 37 CFR 1.47(b) would not satisfy their needs.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Applicants' petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

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)."

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.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

07 JAN 2005

A13

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4100
Denver, CO 80202

In re Application of	:	DECISION ON
CURTIS, Keith Edwin, et al.	:	
Application No.: 09/720,570	:	PETITIONS UNDER
PCT No.: PCT/AU99/00511	:	
Int. Filing Date: 24 June 1999	:	37 CFR 1.47(b)
Priority Date: 24 June 1998	:	
Attorney Docket No.: 3128/FBR	:	AND
For: VIRTUAL EPROM SIMULATOR APPARATUS	:	37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(b) and 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 22 November 2004.

BACKGROUND

On 24 June 1999, applicants filed international application PCT/AU99/00511, which claimed a priority date of 24 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 January 2000, within 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 26 December 2000 (24 December 2000 was a Sunday and 25 December 2000 was a holiday).

On 21 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.

On 12 March 2001, the USPTO mailed a Notification of Missing Requirements (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.

On 30 May 2002, the Office mailed a Notice of Abandonment indicating the application went abandoned for failure to timely reply to the Notice to File Missing Parts mailed 12 March 2001.

On 23 July 2002, applicants submitted the initial petitions under 37 CFR 1.137(b) and 37 CFR 1.183, which were accompanied by a statement from Shahan Islam.

On 22 October 2002, the Office mailed Decision On Petitions Under 37 CFR 1.183 and 37 CFR 1.137(b) dismissing applicants' petitions without prejudice. The decision set a two (2) month period for a proper reply, running from the mail date of that decision, with extensions of time available under 37 CFR 1.136(a).

On 31 July 2003, applicants filed a second petition to revive, along with a petition under 37 CFR 1.47(b).

On 30 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicants' petition without prejudice.

On 23 December 2003, applicants submitted a renewed petition along with a petition and fee for one month extension of time.

On 12 February 2004, the Office mailed Decision On Petition indicating that the requirements of a petition under 37 CFR 1.137(b) had been satisfied, but that the application would remain abandoned pending satisfaction of the requirements for a petition under 37 CFR 1.47(b).

On 12 April 2004, applicant submitted a renewed petition under 37 CFR 1.47(b).

On 15 June 2004, applicant submitted a copy of the 12 April 2004 petition by facsimile.

On 22 September 2004, the Office mailed Decision On Petitions, dismissing applicants' petition under 37 CFR 1.47(b) for insufficient showing of proprietary interest.

On 22 November 2004, applicants submitted this renewed petition.

On 23 December 2004, applicants submitted a declaration.

DISCUSSION

Petition to Revive

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) the required reply, (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). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) were previously satisfied.

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(h), (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.

Items (1), (2), (3) and (6) were previously satisfied.

Items (4) and (5) has now been satisfied. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47b). Applicants have furnished a filing receipt linking the attorney docket number "2597/NU" to the priority application of the PCT. A review of the priority application reveals that the specification of the priority application and this application are the same and that this application is identified by "2597/NU."

CONCLUSION

For the above reasons, applicants' petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b) are **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A notice of the filing of the application under 37 CFR 1.47(b) 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 accordation of a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of **23 December 2004**.

E. M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

07 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Eugene Bond
6329 Lena King Avenue
Las Vegas, NV 89120

In re Application of
CURTIS, Keith Edwin, et al.
Application No.: 09/720,570
PCT No.: PCT/AU99/00511
Int. Filing Date: 24 June 1999
Priority Date: 24 June 1998
Attorney Docket No.: 3128/FBR
For: VIRTUAL EPROM SIMULATOR APPARATUS

Dear Mr. Bond:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. 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. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4100
Denver, CO 80202

07 JAN 2005

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Keith Edwin Curtis
138 Park Ridge Lane
Henderson, NV 89015

In re Application of
CURTIS, Keith Edwin, et al.
Application No.: 09/720,570
PCT No.: PCT/AU99/00511
Int. Filing Date: 24 June 1999
Priority Date: 24 June 1998
Attorney Docket No.: 3128/FBR
For: VIRTUAL EPROM SIMULATOR APPARATUS

Dear Mr. Curtis:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. 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. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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Gibson, Dunn & Crutcher, LLP
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Alexandria, VA 22313-1450
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OCT 19 2004

Paper No. 14

In re Application of :
Steven G. Smarsh *et al* :
Application No. 09/720,576 : DECISION ON PETITION
Filed: December 22, 2000 :
Attorney Docket No. TruTech P-302 :

This is a decision on the petition filed by facsimile transmission on October 15, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the final Office action dated April 9, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, which reply comprises a 37 CFR 1.114 Request for Continued Examination (RCE) together with a submission in the form of an amendment. Petitioners have also furnished a copy of a petition for a two month extension of time. The reply and petition for extension each have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated September 9, 2003, a date within the period for filing a reply to Office letter in question, as extended. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b). In addition, Office financial records show that the fee for the RCE and the fee for the extension were in fact received.

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 RCE, the submission and the petition for extension of time that are attached to the petition. The date to which these papers are entitled is December 1, 2003, with a certificate of mailing date of September 9, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lynn E. Cargill
Cargill & Associates
56 Macomb Place
Mt. Clemens, MI 48043-5636

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Donald S. Dowden
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Poul Henrik Ahm	:	
Application No. 09/720,590	:	ON PETITION
Filed: December 22, 2000	:	
Attorney Docket No. 1175/63851	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2005, to revive the above-identified application.

In response to the final Office action mailed March 11, 2004, petitioner hereby submits $750 for the petition to revive fee, $395 for the filing of a Request for Continued Examination, an amendment as the required submission, and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3643, for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

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MAY 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Petra Koschany :
Application No. 09/720,657 : ON PETITION
Filed: December 28, 2000 :
Attorney Docket No. MSI :

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action October 18, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 19, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1700, Art Unit 1745.

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

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WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

MAIL

SEP - 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
TANI, OKIE
Application No. 09/720,718
Filed: December 28, 2000
For: **METHOD OF EXPRESSION, RECORDING, REPRODUCTION, AND COMMUNICATION OF COMPUTER OBJECT USING COLOR, APPARATUS FOR RECORDING AND/OR REPRODUCTION, RECORDING MEDIUM, AND METHOD OF PREPARATION OF CODE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 6, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee – $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

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United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 16

BENJAMIN RANDALL
238 10TH ST.
TOLEDO, OH 43624

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OCT 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Duane Wires :
Application No. 09/720,754 : ON PETITION
Filed: February 19, 2001 :
Attorney Docket No. 00265 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 1732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

JAMES A. SHERIDAN
THOMASON MOSER & PATTERSON
4149 -B EL CAMINO WAY
PALO-ALTO, CA 94306-4036

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APR 25 2003

OFFICE OF PETITIONS

In re Application of :
Robert William Turnbull :
Application No. 09/720,755 : ON PETITION
Filed: February 20, 2001 :
Attorney Docket No. MURG P22101C :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 August 12, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1712.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: JAMES A. SHERIDAN
MOSER PATTERSON & SHERIDAN
350 CAMBRIDGE AVENUE
SUITE 250
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 14

JAMES A. SHERIDAN
THOMASON MOSER & PATTERSON
4149 -B EL CAMINO WAY
PALO-ALTO, CA 94306-4036

COPY MAILED

APR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Robert William Turnbull :
Application No. 09/720,755 : ON PETITION
Filed: February 20, 2001 :
Attorney Docket No. MURG P22101C :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 August 12, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1712.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JAMES A. SHERIDAN ,
MOSER PATTERSON & SHERIDAN
350 CAMBRIDGE AVENUE
SUITE 250
PALO ALTO, CA 94306

RECEIVED

MAY 1 [illegible]

OFFICE OF PETITIONS

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GREGORY J. LAVORGNA
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE 18TH & CHERRY STREET
PHILADEPHIA, PA 19103-6996

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Robert William Turnbull :
Application No. 09/720,755 : ON PETITION
Filed: February 20, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 24, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 1724 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 3, 18, 2006

TO SPE OF : ART UNIT 3621

SUBJECT : Request for Certificate of Correction on Patent No.: 6,907,407/09720791

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:

10/1/07
ANDREW J. FISCHER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
SPE

3621
Art Unit

PTOL-306 (REV. 7/03)
U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

JAN 09 2002

JOSEPH SOFER
SUITE 1921
342 MADISON AVENUE
NEW YORK, NY 10173

In re Application of
OMARRSON
Application No.: 09/720,833
PCT No.: PCT/IB99/01214
Int. Filing Date: 28 June 1999
Priority Date: 01 July 1998
Attorney Docket No.: 918-002
For: FUEL-AIR MIXTURE APPARATUS

DECISION ON PETITION

UNDER 37 CFR 1.137(a)

This is a decision on applicant's petition under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office (USPTO) on 05 March 2001.

BACKGROUND

On 28 June 1999, applicant filed international application No. PCT/IB99/01214 which claimed a priority date of 01 July 1998, and which designated the United States.

On 28 January 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended and expired 30 months from the priority date, i.e. 02 January 2001 (01 January 2001 was a federal holiday).

On 28 December 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: authorization to charge the $930 basic national fee to applicant's deposit account (no.19-2825). However. there were insufficient funds in applicant's deposit account to pay the basic national fees and as a result. the application went abandoned.

On 26 January 2001, applicant provided a Declaration and Power of Attorney executed by the inventor along with authorization to charge deposit account no.19-2825 the surcharge for filing the declaration after the thirty month period.

On 05 February 2001, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the basic national fee by the 30 month deadline.

On 05 March 2001, applicant filed the present petition requesting that the application be revived since the abandonment was unavoidable on the grounds that the deficiency in applicant's deposit account was the result of "several mistakes [that] were made on the part of the United States Patent and Trademark Office, such as overcharging and unauthorized withdrawals, which could not have been reasonably anticipated by us on or before December 28, 2000". Applicant acknowledges that the balance was lower than anticipated and that "there were insufficient funds in the account to cover the Basic National Fee of $930".

DISCUSSION

PETITION TO REVIVE UNDER 37 CFR 1.137(a)

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay is required to be filed promptly after applicant became aware of the abandonment. Such petition is required to be accompanied by (1) a proper response, unless already filed, (2) 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 was unavoidable, (3) the petition fee required by law, and (IV) a terminal disclaimer and fee where the application was filed before 08 June 1995.

A review of the finance records for this application indicate that applicant has satisfied Item (1) above, with the payment of the basic national fee of $860. As for Item (3), the requisite petition fee of $55.00 has been paid. Thus, Items (1) and (3) above have been satisfied. With regard to item (4), a terminal disclaimer and fee is not required in this case since the application was filed after 08 June 1995.

Concerning item (2), applicant has urged that the delay in paying the basic national fee was the result of a deficiency in applicant's deposit account due to USPTO mistakes, "such as overcharging and unauthorized withdrawals, which could not have been reasonably anticipated by us on or before December 28, 2000".

In support of his petition, applicant submitted the affidavit of his attorney, Joseph Sofer, in an attempt to explain the "discrepancies where overcharged or unauthorized withdrawals were made against Deposit Account 19-2825" which applicant claims reduced the balance below the law firm's reasonable expectation. (¶7) In ¶8, Mr. Sofer references three (3) U.S. applications handled by the law firm, where the alleged incorrect or unauthorized charges to the firm's deposit account were incurred causing the deficiency in the present application. Mr. Sofer notes that the redacted information regarding the three applications is intended to preserve the clients' confidentiality. The following is a discussion of the one of the three applications specifically relied upon in Mr. Sofer's affidavit.

Attorney Docket No. 655-012 Referenced in Sofer Affidavit ¶8(C)

In the application represented by attorney docket no. 655-012, counsel argues that the USPTO charged the issue fee of $1240 to deposit account no.19-2825 on the date that the fees were due (12/18/00), in spite of the fact that a check for the amount of $1210 had allegedly been provided with the filing. Counsel provided a copy of the check with part of the application number handwritten upon it. Counsel did not provide a copy of the canceled check and states that he checked with the law firm's bank on February 13, 2001 and the check [#5130] in the amount of $1210 is still outstanding.

Counsel also provided a copy of the postcard receipt bearing USPTO date-stamp "18

December 2000" and the attorney docket number 655-012. The itemized postcard indicates that a check for $1210 was included with the Issue Fee Transmittal. The appropriate issue fee is $1240. However, this is sufficient evidence that applicant provided the funds for the issue fee in the form of a check and would be in reasonable reliance that the check would cover those fees and his deposit account would not be charged the amount of $1210.

The withdrawal $1240 from deposit account no.19-2825 by the USPTO in the amount of, although authorized, should not have been necessary, thus causing the deposit account balance to fall below the amount needed to cover the basic national fee of $860 necessary in the instant application, and the subsequent abandonment.

Given counsel's reasonable reliance on a sufficient balance in his deposit account no.19-2825 to cover the basic national fee in this case, petitioner has met his burden of establishing unavoidable delay within the meaning of 37 CFR 1.137(a) and 35 U.S.C. 133 and the petition to revive an application under 37 CFR 1.137(a) can be granted.

Therefore, since applicant has satisfied item (2) above, the granting of the petition under 37 CFR 1.137(a) for revival based on unavoidable delay is proper.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **GRANTED** without prejudice.

A review of the application file reveals that the basic national fee of $840 has been paid. Applicant authorized "any fees or charges...deemed necessary in connection with the application at the present time" to be charged deposit account no.19-2825. The $65 surcharge for filing the declaration after the thirty month period will be charged to applicant's deposit account no.19-2825. The 35 U.S.C. 371 date for this application is 26 January 2001.

This application is being forwarded to National Stage Processing Branch to continue National Stage processing.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Boris Milef
Legal Examiner
PCT Legal Office

CMK/BM:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

MEMO

To: Harry Moatz, Office of Enrollment and Discipline
CP6-Room 1103

From: Cynthia M. Kratz
Petitions Attorney, PCT Legal Office

Via: Boris Milef, Legal Examiner, PCT Legal Office

Subject: 09/720,833 and 09/731,424

Date: January 7, 2002

Pursuant to the meeting between you and Boris Milef on 20 December 2001, the above identified application files are forwarded to your office for further review.

The facts are as follows:
Attorney of record Joseph Sofer filed a petition under 37 CFR 1.137(a) in 09/720,833 on 05 March 2001 to revive the application based upon unavoidable abandonment. Mr. Sofer argues that in three separate instances, the USPTO overcharged his deposit account which caused a fee deficiency in his account resulting in abandonment of the 09/720,833 application. The petition has been granted on the basis of the third enumerated instance. Troubling, however, is Mr. Sofer's representation with respect to the second enumerated instance, identified on page 3 of the petition (his reference number "655-004c1", which corresponds to U.S. application 09/731,424).

Specifically, Mr. Sofer provided an exhibit, which relates to the 09/731,424 application. The exhibit (Ex.10) is a fee calculation sheet, which indicates that a check in the amount of $1,884 was enclosed. Mr. Sofer expressly states in his affidavit that "there is no check mark beside the box authorizing the fees to be charged to Deposit Account No.19-2825." (See Sofer affidavit, ¶8B.) However, a review of the original application file for 09/731,424 reveals a discrepancy in the fee calculation sheet. The original fee calculation sheet shows a check mark in the box authorizing the amount to be charged to Mr. Sofer's deposit account and there is no indication that a check for $1884 was enclosed. The indication of an enclosed check appeared "whited-out" on the original fee sheet.

It is possible that the fee calculation sheet used as an exhibit was altered to lend support to Mr. Sofer's petition.

After your review of the application files, please return the 09/720,833 file to the National Stage Processing Branch of the Office of PCT Operations to continue U.S. processing.

17 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

HOWARD & HOWARD
THE PINEHURST OFFICE CENTER
SUITE 101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

In re Application of	:	
ANZAI	:	
Application No.: 09/720,839	:	DECISION ON
PCT No.: PCT/JP00/02882	:	
Int. Filing Date: 01 May 2000	:	PETITION
Priority Date: 30 April 1999	:	
Attorney Docket No.: 64,105-048	:	
For: METHOD OF MANUFACTURING FLEXIBLE RESIN HOSE	:	

This is a decision on applicants' "PETITION UNDER 37 C.F.R. § 1.182 FOR TRANSMITTAL LETTER CORRECTION" filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 02 July 2002. The petition fee of $130.00 has been charged to counsel's Deposit Account No. 08-2789. The petition is **GRANTED** as discussed below.

On 29 December 2000, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: an English-language translation of the international application, a declaration of the inventors, and the basic national fee. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/JP00/02822.

On 02 February 2001, the United States Designated/Elected Office mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) which indicated the international application number as PCT/JP00/02822 and which accorded 35 U.S.C. 102(e) and 371(c) dates of 29 December 2000.

On 02 July 2002, applicants submitted the instant "PETITION UNDER 37 C.F.R. § 1.182 FOR TRANSMITTAL LETTER CORRECTION."

A review of the application file including counsel's statements in the present petition, as well as a review of the USPTO file for PCT/JP00/02882, reveals that the indication of international application PCT/JP00/02822 was incorrect, and that the present application should

04/10/2003 EKAJARRO 00000010 082709 09720839

01 FC:1460 130.00 CH

in fact be the national stage application of international application PCT/JP00/02882. Accordingly, the NOTIFICATION OF ACCEPTANCE mailed 02 February 2001 is hereby VACATED. It is noted, however, that the 35 U.S.C. 371(c) date accorded of 29 December 200 in this NOTIFICATION OF ACCEPTANCE was correct with respect to the above-identified application.

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 processing in accordance with this decision, that is for: (1) mailing of a corrected NOTIFICATION OF ACCEPTANCE (Form PCT/DO/EO/903) indicating the international application number as PCT/JP00/02882 and according the application a 35 U.S.C. 371(c) date of **29 December 2000**; and (2) issuance of a corrected filing receipt.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed:

In re application of	:	
Milovan Stankov et al.	:	DECISION ON
Serial No. 09/720,862	:	PETITION
Filed: January 2, 2001	:	SEP 29 2005
For: Device For Determining An Analyte In A Liquid Sample	:	SEP 29 2005

This is a decision on the petition filed on June 29, 2005. The petition requests to remail the Office Action of March 25, 2005 and restart the response period.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee).

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, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - 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 applicant or any authorized representative of the applicant did not receive the Office Action mailed March 25, 2005. The evidence provided includes a statement by the petitioner that the Office letter mailed March 25, 2005 was not received, a copy of the attorney's application docket records where the Office letter mailed March 25, 2005 would have been posted had it been timely received.

The petition is **GRANTED.**

The office action will be resent and the time period for reply restarted.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Leana Levin
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, Virginia 22320

08 OCT 2004

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Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington DC 20037-3213

In re Application of	:	
WILJAN et al.	:	
Application No.: 09/720,879	:	DECISION
PCT No.: PCT/EP99/03853	:	
Int. Filing Date: 02 June 1999	:	
Priority Date: 02 July 1998	:	
Attorney Docket No.: Q62284	:	
For: COARSE DIRT COLLECTOR FOR REMOVING COARSE MATERIAL FROM A PULPER AND CORRESPONDING METHOD	:	

This decision is in response to applicants' "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed in the United States Patent and Trademark Office (USPTO) on 05 August 2004 and 10 August 2004.

BACKGROUND

On 02 June 1999, applicant filed international application PCT/EP99/03853, which claimed a priority date of 02 July 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2001.

On 02 January 2001, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 January 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, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a one-month extendable time period.

On 24 February 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 January 2001 within the time period set therein.

On 05 August 2004, applicants submitted a "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)".

On 10 August 2004, applicants submitted a second "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)", which included, *inter alia*, a postcard receipt date-stamped by the USPTO, a copy of a declaration of inventors, a copy of a petition for a one-month extension of time, and a copy of two cashed checks.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 26 March 2001 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 26 March 2001 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 10 August 2004 is a copy of the declaration originally filed 26 March 2001. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 10 August 2004 may properly be accepted as originally received in the USPTO on 26 March 2001. Accordingly, the NOTICE OF ABANDONMENT mailed 24 February 2004 is hereby VACATED.

The declaration of inventors filed 26 March 2001 is in compliance 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTICE OF ABANDONMENT mailed 26 February 2004 is VACATED.

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.

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 in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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JUL 23 2007

OFFICE OF PETITIONS

In re Patent No. 7,203,733
Issue Date: April 10, 2007
Application No. 09/720,885
Filed: April 2, 2001
Patentee(s): Marie Bern

ON PETITION

This is a decision on the petition under 37 CFR 1.183 filed by facsimile transmission on May 29, 2007, which is being treated as a Request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**. Accordingly, the name of the assignee will be corrected to "Microsoft Corporation, Redmond, Washington."

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

MAR 15 20

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

David A. Jackson
KLAUBER & JACKSON
411 Hackensack Avenue, 4th Floor
Hackensack, NJ 07601

In re Application of: KORENBERG, Julie, R., et al.
U.S. Application No.: 09/720,934
PCT No.: PCT/US99/08371
International Filing Date: 16 April 1999
Priority Date: 16 April 1998
Attorney's Docket No.: 2320-1-001 PCT/US
For: ISOLATED SH3 GENES ASSOCIATED WITH MYELOPROLIFERATIVE DISORDERS AND LEUKEMIA, AND USES THEREOF

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 02 January 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have now submitted the basic national fee of $430 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.

Applicants have also submitted a declaration in compliance with 37 CFR 1.497, and Deposit Account No. 11-1153 has been charged the required $65 surcharge for supplying the oath or declaration later than thirty months from the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371(c) date is **02 January 2001.**

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

David A. Jackson
Klauber & Jackson
411 Hackensack Avenue
Hackensack, NJ 07601

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DEC 18 2002

OFFICE OF PETITIONS

In re Application of :
Julie R. Korenberg et al. :
Application No. 09/720,934 : ON PETITION
Filed: January 2, 2001 :
Attorney Docket No. 2320-1-001PCT-US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2002, which set a period for reply of One Month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 28, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1642 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#5
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
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JUL 12 2002

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JUL 12 2002

OFFICE OF THE DIRECTOR
TC 3600

William J. Kubida, Esq.
Hogan & Hartson, LLP
Suite 1500
1200 17th Street
Denver CO 80202

In re application of :
Joshua Alspector et al. :
Application No. 09/721,008 :
Filed: November 22, 2000 :
For: FILTERING SYSTEM FOR PROVIDING :
PERSONALIZED INFORMATION IN THE :
ABSENCE OF NEGATIVE DATA :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on June 17, 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. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) and D) above. Since the power of attorney is currently held by those attorneys associated with Customer Number 25235 as listed on the original declaration, the single signature provided is insufficient to meet condition A), above. There is no statement that the applicant has specifically been notified of the filing of the request for withdrawal as attorney.

Also, the withdrawing attorney has asked that the correspondence address be changed to a third party who at this point has no vested interest in, or identified relationship to, this application. Therefore, even if the withdrawal request was approved, the correspondence address would be changed to that of the inventor in this case.

In summary, the request is **NOT APPROVED**.

Kenneth Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KD/dw:; 7/11/02

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BARRY R. LIPSITZ
LAW OFFICES OF BARRY R. LIPSITZ
BUILDING 8
755 MAIN STREET
MONROE CT 06468

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DEC 2 4 2008

In re Patent Number: 6912315	:	
Issue Date: 06/28/2005	:	
Application No. 09/721015	:	NOTICE
Filed: 11/22/2000	:	
Attorney Docket No. SOL-134	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on March 28, 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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 12 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W.
Suite 600
Washington DC 20005-3934

In re Application of	:	
Dominik M. Wiktor	:	DECISION ON
Serial No. : 09/721,107	:	PETITION
Filed : November 22, 2000	:	UNDER 37 CFR 1.59
For : Intravascular Stent	:	

This is a decision on the petition under 37 CFR 1.59(b), filed May 10, 2002, to expunge information from the above identified application.

Petitioner requests that a response and petition of extension of time under 37 CFR 1.136(a) signed by Bruce Collins received April 15, 2002 with a certificate of mailing dated April 3, 2002 (hereinafter "the unauthorized response"), be expunged from the record and returned to petitioner. Petitioner states that applicant's former representative inadvertently filed the unauthorized response in response to the Office action mailed October 3, 2001 despite knowing of a transfer of representation of the above-referenced application to petitioner. The response was made without applicant's knowledge. Petitioner states that the filing of the unauthorized response was unintentional and without the consent of applicant. Petitioner also states that the failure to obtain its return would cause irreparable harm to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The petition is **granted**. Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application. The expunged material is returned herewith.

As a response to the Office action mailed October 3, 2001 was filed by applicant's current representative and received April 3, 2002, upon the mailing of this decision, the application will be forwarded to the examiner for consideration of the response received April 3, 2002.

Summary: Petition to expunge unintentionally submitted material **granted**.

John E. Kittle, Director
Technology Center 3700
Phone: (703) 308-0873

ak/3/8/04

Enclosure: Response and petition of extension of time filed April 15, 2002 and signed by Bruce Collins.

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COMMISSIONER FOR PATENTS
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Paper No. 18

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Edgren et al. :
Application No. 09/721,111 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. ARC 2702N1 :

This decision concerns the March 12, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on October 17, 2003 for failure to timely submit a proper reply to the July 16, 2003 non-final Office Action.

The instant petition encloses an amendment and the $1,330 petition fee; and states in effect that the entire delay in filing a proper reply to the July 16, 2003 non-final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

In addition, the petition is accompanied by a Request for Continued Examination (RCE). However, an RCE may only be filed when prosecution in an application is closed,[1] which is not the case here. The RCE is thus improper and has not been entered. The $770 RCE filing fee charged to Deposit Account No. 10-0750 has been credited to the account.

The application file is being returned to Technology Center 1600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

[1] 37 CFR 1.114(a).

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DW 03-03

Paper No. 8

CHARLES R. NOLD
LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD
MS 90-1121
BERKELEY CA 94720

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MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Alivisatos et al.	:	
Application No. 09/721,126	:	ON PETITION
Filed: 22 November, 2000	:	
Attorney Docket No. IB-1576- C.I.P.	:	

This is a decision on the petition, styled under 37 CFR 1.137(a)[1] filed on 21 January, 2003, 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 24 May, 2002, for failure to timely file a response to the Office action requiring restriction/election mailed on 23 April, 2002, which set a one (1) month period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 December, 2002.

Petitioner asserts that a proper response was timely filed. 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, consisting of a response to the restriction requirement and a one (1) month time extension under 37 CFR 1.136(a). Also included is a transmittal form itemizing the

[1]Although the petition paper is titled as a petition under 37 CFR 1.137(a), the petition states that the abandonment was unintentional, and the fee for a petition under 37 CFR 1.137(b) was submitted.

filing of the reply and extension of time and containing a certificate of mailing dated 20 June, 2002, and signed by petitioners' registered patent attorney Charles R. Nold. The petition also contains a statement by petitioner's counsel that the response was sent on 20 June, 2002.

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 4 December, 2002, was sent in error and is vacated. No petition fee is due and none has been charged.

Petitioner must submit the one (1) month extension of time fee, however. As such, counsel's deposit account, No. 12-0690, will be charged $55.00 (small entity fee) as authorized on the extension of time request.

This application is being 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
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

CHARLES R. NOLD
LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD
MS 90-1121
BERKELEY CA 94720

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Paul A. Alivisatos et al :
Application No. 09/721,126 :
Filed: November 22, 2000 :
Attorney Docket No. IB-1576-C.I.P. :

ON PETITION

This is a decision on the petition, filed December 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 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 1754 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

MARK ZAGORIN
ZAGORIN O. BRIEN & GRAHAM LLP
401 W 15TH STREET
SUITE 870
AUSTIN, TX 78701

MAIL

AUG 17 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Husnain BAJWA, et al.
Application No.: 09/721,220
Filed: November 22, 2000
For: CENTRALIZED FEATURE PLATFORM IN A PACKETIZED NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed July 20, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

The following attorney(s) are withdrawn from the record: Mark Zagorin, Andrew C. Graham, David W. O'Brien.

The Office does not recognize law firms as such. There must be clear representations of any other Attorneys of Record wishing to withdraw from the record within the petition.

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: SAMUEL R. SHIFFMAN
POINT ONE TELECOMMUNICATIONS, INC.
6801 N. CAPITAL OF TEXAS HWY,
BUILDING 2, SUITE 100
AUSTIN, TEXAS 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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AUG 2 9 2003

OFFICE OF PETITIONS

Mark D. Saralino
Renner, Otto, Boisselle & Sklar LLP
19th Floor
1621 Euclid Avenue
Cleveland, OH 44115

In re Application of
Ravi Srinivasan
Application No. 09/721,249
Filed: November 22, 2000
Attorney Docket No. AIRI.P0104USA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper reply to the final Office action mailed October 8, 2002. A shortened statutory period of three-months was set forth for a reply. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Request for Continued Examination (RCE) was filed on April 14, 2003(certificate of mailing dated April 8, 2003), along with a request for an extension of time within the third month. The RCE was improper because a submission was not filed with it. The application became abandoned on April 9, 2003. A Notice of Abandonment was mailed on June 2, 2003.

The submission filed August 11, 2003, is noted and made of record. It is assumed that submission is to be made part of the RCE filed April 14, 2003, and not simply an amendment after final Office action. It this assumption is incorrect, petitioner should contact the undersigned immediately.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Jennifa Gosling et al :
Application No. 09/721,341 : DECISION GRANTING PETITION
Filed: November 21, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19934-000711US :

This is a decision on the following petitions, filed December 1, 2004: **(1)** petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee; **(2)** petition under 37 CFR 1.47, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67(b) which requires a supplemental oath or declaration executed by all the named inventors; **(3)** petition under 37 CFR 1.183 to waive the provisions of 1.48(a)(3) which requires an oath or declaration executed by the actual inventor or inventors as required by § 1.63; and **(4)** the petition under 37 CFR 1.48(a) to correct the inventorship in the above-identified application.

The petitions are **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(C)(2)

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, 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]

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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).*

DISCUSSION OF PETITION UNDER 37 CFR 1.183 TO WAIVE THE PROVISIONS OF 37 CFR 1.67(a)(1)

MPEP § 603 provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be located to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." As the inventor who executed the originally submitted declaration is now refusing to execute a supplemental declaration, the submission of a petition under 37 CFR 1.47(a) is not the appropriate avenue of relief in this instance.

Accordingly, the petition under 37 CFR 1.47(a) is being treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a)(1) which requires a supplemental declaration executed by less than all the named inventors who originally executed a declaration.

Petitioner states that the application papers for this file were mailed to joint inventor Michael Hanley, but were refused delivery. Petitioner further states that Mr. Hanley refused to execute the supplemental declaration due to the fact that he was no longer employed by assignee herein and further would not sign unless he was compensated for executing the declaration. For these reasons, petitioner now requests acceptance of a supplemental declaration without the signature of previously signing inventor joint Michael Hanley.

Under the circumstances recounted in the petition, justice would be served by suspending the requirements of 37 CFR 1.67(a)(1). Accordingly, the declaration received on December 1, 2004 and executed by the named inventors and without the signature of previously signing joint inventor Mr. Hanley is accepted as a proper oath under 37 CFR 1.67(a)(1).

DISCUSSION OF PETITIONS UNDER 37 CFR 1.48(a) AND 37 CFR 1.183 TO WAIVE THE REQUIREMENTS OF 37 CFR 1.48(a)(3)

A petition under 37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) 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;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(I); and
> (5) If an assignment has been executed by any of the

original named inventors, the written consent of the assignee.

The instant petition seeks to delete Dale Talbot, who through error and without deceptive intent was inadvertently named as an inventor. Accordingly, on petition requesting correction of inventorship pursuant to 35 U.S.C. § 116 and 37 CFR 1.48(a), it has been found that the above-identified application, through error and without deceptive intent, improperly sets forth the inventorship.

As noted above, joint inventor Michael Hanley, who executed the original declaration, now refuses to execute the supplemental declaration. However, for the reasons stated above, justice would be served by suspending the requirements of 37 CFR 1.48(a)(3) which requires the signature of the actual inventor(s) in accordance with 37 CFR 1.63.

The petition has been found to satisfy the requirements of 37 CFR 1.48(a). Accordingly, it is hereby certified that the correct inventorship of this application is:

1. Jennifa Gosling
2. Daniel J. Dairaghi
3. Michael Hanley
4. Zhenhua Miao
5. Thomas J. Schall

A corrected Filing Receipt which sets forth the correct inventorship accompanies this decision on petition.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1647 for processing of the request for continued examination under 37 CFR 1.114.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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OCT 0 2 2006

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Application of
Hartman, et al.
Application No. 09/721,347
Filed: November 22, 2000
Docket No.: 8498-031-999

: DECISION ON PETITION
: and NOTICE REGARDING ENTITY
: STATUS

This is a decision on the notification of loss of small entity status under 37 CFR 1.28 as well as the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 24, 2006.

DECISION UNDER 37 CFR 1.28

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full. Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

The change of status to a large entity has been entered and made of record.

DECISION UNDER 37 CFR 1.137(b)

This application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed December 7, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed May 4, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to

timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

The correspondence address indicated on the instant petition differs from that currently of record. If petitioners desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. All future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: FRANCIS MORRIS
101 PARK AVE.
NY, NY 10178

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 9/721367

DATE : 2/16/06

Paper No.: ____

TO SPE OF : ART UNIT 2638

SUBJECT : Request for Certificate of Correction on Patent No.: 6985541 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

Virginia Tolbert
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.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Chris Mc-T
SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

WILLIAM M SMITH
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 20 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Thomas R. Cech et al. : DECISION GRANTING
Application No. 09/721,456 : PETITION
Filed: November 22, 2000 :
Attorney Docket No. 15389-002615US :

This is a decision on the petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 22, 2000, rather than the presently accorded filing date of November 24, 2000.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on November 22, 2000. In support, applicants provided a copy of the Express Mail label, receipt no. EL265822434US, showing a Date-In of November 22, 2000. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of November 22, 2000.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 22, 2000.

The petition is granted. Since the petition was a result of PTO error, the $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to November 22, 2000.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 23

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

Certificate
MAY 06 2005
of Correction

MAY

In re Patent No. 6,617,110 B1	:	
Cech, et al.	:	LETTER REGARDING
Issue Date: September 9, 2003	:	PATENT TERM ADJUSTMENT
Application No. 09/721,456	:	AND
Filed: November 24, 2000	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 01538-002615US	:	CERTIFICATE OF CORRECTION
	:	

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 1.322", filed November 10, 2003, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred six (306)** days.

On September 9, 2003, the above-identified application matured into U.S. Patent No. 6,617,110 B1. The patent issued with a Patent Term Adjustment of 0 days. This was inconsistent with the 306 days shown in PAIR.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

No fee is required and none has been charged.

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 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred six (306)** days subject to any disclaimers.

The certificate of correction will also indicate a filing date of November 22, 2000, as requested.

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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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Takeshi Yamaguchi, et al. :
Application No. 09/721,469 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. 55409/70904 :

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2653 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : April 18, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Takeshi Yamaguchi, et al
Application No. : 09/721,469
Filed : November 22, 2000

The above-identified application has been assigned Patent No. 6,888,784 and an issue date of May 3, 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 May 3, 2005:

"All reference to Patent No. 6,888,784 to TAKESHI YAMAGUCHI, ET AL of JAPAN for RECORDING METHOD OF OPTICAL DISK, OPTICAL DISK RECORDING APPARATUS, OPTICAL DISK REPRODUCING APPARATUS AND OPTICAL DISK appearing in the Official Gazette of May 3, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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PILLSBURY WINTHROP LLP/LA

Pap r No. 6

MR CHARANJIT BRAHMA
PILLSBURY WINTHROP LLP
725 SOUTH FIGUEROA STREET
SUITE 2800
LOS ANGELES CA 90017

SEP 2 4 2001

CL# 081087 MT# 0250439 COPY MAILED
ATTY(S) OB-TANS
DUE: N/A SEP 1 3 2001
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OFFICE OF PETITIONS

In re Application of
Gary Elsasser
Application No. 09/721,471
Filed: November 22, 2000
Attorney Docket No. 81087-250439
Title: DISTRIBUTED TRANSCEIVER FOR WIRELESS COMMUNICATION SYSTEM

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 9, 2001.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on November 22, 2000. On April 4, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. 1.63, and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one-month extension of time.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 C.F.R. 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (4) a statement of the last known address of the non-signing inventors; and (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

On petition, Attorney Charanjit Brahma included a declaration from Attorney David Harshman, who has first hand knowledge of the facts relied on to conclude that the inventor refused to sign, including the inventor's failure to respond to the request to sign the declaration. Accompanying the petition and declaration is the following supporting documentary evidence: (1) a cover letter of May 2, 2001, showing that the declaration and application papers were transmitted to the non-signing inventor via certified mail at his last known place of address; and (2) a return receipt signed by non-signing inventor Gary Elsasser. Petitioner has shown that the non-signing inventor has refused to

join in the filing of the above-identified application after having been presented with the application papers.

The declaration filed July 9, 2001, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2600 for continued examination.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Christina Y. Tartera for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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OIPE JC10
JAN 26 2004
PATENT & TRADEMARK OFFICE

GARY ELSASSER
2 PEGASUS DR
COTO DE CAZA CA 92679

COPY MAILED

SEP 13 2001

OFFICE OF PETITIONS

In re Application of :
Gary Elsasser :
Application No. 09/721,471 :
Filed: November 22, 2000 : LETTER
Title: DISTRIBUTED TRANSCEIVER FOR :
WIRELESS COMMUNICATION SYSTEM :

Dear Mr. Elsasser:

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 the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 (703) 305-0272. 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).

Christina F. Tartera for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Charanjit Brahma
Pillsbury Winthrop LLP
725 South Figueroa Street, Suite 2800
Los Angeles CA 90017-5406

Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/721,477
Filing Date	November 22, 2000
First Named Inventor	Cech et al.
Group Art Unit	1642
Examiner Name	
Total Number of Pages in This Submission: 1	Attorney Docket Number: 015389002614

RECEIVED
OCT 01 2001
TECH CENTER 1600/2900
09721477 112200

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [X] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [X] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [X] Drawing(s) (103 Sheet of formals)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying 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
- [X] Other Enclosure(s) *(please identify below)*:
  - Return Postcard
  - Communication Under 37 CFR §1.821(e) and Preliminary Amendment
  - Preliminary Amendment
  - Sequence Listing (paper copy)

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Scott L. Ausenhus Reg No. 42,271
Signature	Scott Ausenhus
Date	September 26, 2001

CERTIFICATE OF EXPRESS MAILING

Express Mail Label: EL 903200385 US

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date and is addressed to:

Assistant Commissioner for Patents, Washington, D.C. 20231

Typed or printed name	Maisie C. Livengood		
Signature	Maisie C. Livengood	Date	September 26, 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.

DE 7044549 v1

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FEE TRANSMITTAL for FY 2001

SEP 26 2001
PATENT & TRADEMARK OFFICE

Patent fees are subject to annual revision.

Complete if Known	
Application Number	09/721,477
Filing Date	November 22, 2000
First Named Inventor	Cech et al.
Examiner Name	
Group Art Unit	1642
Attorney Docket No.	015389-002614US

TOTAL AMOUNT OF PAYMENT ($) 1730

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 20-1430

Deposit Account Name: Townsend and Townsend and Crew LLP

☒ 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 Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	710
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) ($)710

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below	=	Fee Paid
Total Claims	20	-20** =	0	X	$18	=	$0
Independent Claims	3	-3** =	0	X	$80	=	$0
Multiple Dependent				X		=	

Large Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	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 Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	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	890
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	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)	
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)	

The Commissioner is authorized to charge any additional fees to the above noted Deposit Account.

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($)1020

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	Scott L. Ausenhus	Registration No. (Attorney/Agent)	42,271	Telephone	303-571-4000
Signature	Scott Ausenhus			Date	September 26, 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, 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. DE 7044550 v1

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I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

Assistant Commission for Patents
Washington, DC 20231

TOWNSEND and TOWNSEND and CREW LLP

By: Maisie C. Livengood
Maisie C. Livengood

PATENT
Attorney Docket No.: 015389-002614
Client Ref. No.: 018/2096

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Cech et al.

Serial No.: 09/721,477

Filed: November 22, 2000

For: **HUMAN TELOMERASE CATALYTIC SUBUNIT**

Examiner:.

Art Unit: 1642

SUBMISSION OF FORMAL DRAWINGS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Enclosed for filing in the above-referenced application are one 103 sheets of formal drawings containing Figs. 1-9, 10A, 10B, 11-54, 55A, 55B and 56-75. These figures constitute all of the drawings in this application.

Respectfully submitted,

Scott L. Ausenhus
Reg. No. 42,271

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111
Phone (303) 571-4000
Fax (303) 571-4321
SLA:mcl
DE 7044533 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/721,477	11/22/2000	Thomas R. Cech	015389-002614US

CONFIRMATION NO. 7082

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

FORMALITIES LETTER

OC000000006011726

Date Mailed: 04/26/2001

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).*
- 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.**

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821 (g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825 (b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

12/20/2001 YGIZAW 00000006 201430 09721477

01 FC:101 710.00 CH
02 FC:105 130.00 CH

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

CHARANJIT BRAHMA
PILLSBURY WINTHROP LLP
725 SOUTH FIGUEROA STREET, SUITE 2800
LOS ANGELES, CA 90017-5406

COPY MAILED

AUG 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Soheila Abdolbaghian et al. :
Application No. 09/721,498 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. 81087-250435 :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 24, 2001 (certificate of mailing July 19, 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the residence, mailing address and citizenship of joint inventor Tuan Nguyen. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated above and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Special Program Law Office
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

#7

Paper No. 7

CHARANJIT BRAHMA
PILLSBURY WINTHROP LLP
725 SOUTH FIGUEROA STREET, SUITE 2800
LOS ANGELES, CA 90017-5406

COPY MAILED

SEP 25 2001

OFFICE OF PETITIONS

In re Application of :
Soheila Abdolbaghian et al :
Application No. 09/721,498 : DECISION REFUSING STATUS
Filed: November 22, 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 81087-250435 :

This is in response to the petition, filed September 18, 2001, requesting reconsideration of a decision mailed August 15, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks item (2) set forth above.

As to item (2), as noted in the decision mailed August 15, 2001, the declaration is defective since it is not in compliance with 37 CFR 1.63 and 1.64 and, as such, is not acceptable. As explained in the decision of August 15, 2001, the declaration

does not set forth nonsigning inventor Tuan Nguyen's residence, mailing address and citizenship.

Petitioner seeks to satisfy the requirements of 37 CFR 1.47(a), 37 CFR 1.63 and 37 1.64 by stating the citizenship of inventor Nguyen in the petition. Petitioner further states that it is his understanding from a conversation with Office personnel that Mr. Nguyen's residence and mailing address were sufficiently provided in the submitted declaration.

Petitioner's attention is directed to 35 USC 115 which states:

> The applicant shall make oath that he believes himself to be the original and first inventor of the process, machine, manufacture, or composition of matter, or improvement thereof, for which he solicits a patent; and shall state of what country he is a citizen.

Petitioner's attention is also directed to 37 CFR 1.76 which provides that the residence and mailing address of the inventor may be included on an Application Data Sheet, but that the citzenship is governed by 37 CFR 1.63(a)(3).

In view of the above, petitioner must submit an oath or declaration bearing the citizenship of inventor Nguyen, as well as his residence and mailing address. While, as noted above, the residence and address may be included on an Application Data Sheet, the citizenship must be set forth in the oath or declaration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-8680.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Charanjit Brahma
Pillsbury Winthrop LLP
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406

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MAR 2 5 2002

OFFICE OF PETITIONS

In re Application of	:
Soheila Abdolbaghian et al	:
Application No. 09/721,498	: DECISION GRANTING
Filed: November 22, 2000	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 81087-250435	:
	:

This is a decision on the petition filed by facsimile transmission on February 25, 2002, requesting reconsideration of a decision mailed September 25, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventor, Tuan Nguyen, has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Stephen G. Perlman et al :
Application No. 09/721,556 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. 004259-P009 :

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 above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed June 8, 2004, 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 9, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 03-05

Paper No: __

ADAM J. FORMAN, ESQ.
QUARLES & BRADY LLP
SUITE 2040
411 E. WISCONSIN AVENUE
MILWAUKEE WI 53202-4497

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MAY 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Avinash, et al.	:	
Application No. 09/721,606	:	DECISION
Filing Date: 22 November, 2000	:	
Attorney Docket No. 390086.94677	:	

This is a decision on the petition filed on 24 September, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the drawings requirements mailed with the Notice of Allowability on 23 March, 2004, with response due under a non-extendable deadline on or before 23 June, 2004;

- the application went abandoned after midnight 23 June, 2004;

- the Office mailed the Notice of Abandonment on 9 August, 2004;
- on 24 September, 2004, Petitioner filed the instant petition and fee, the reply in the form of a drawings, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of :
Anja Mueller et al :
Application No. 09/721,613 : ON PETITION
Filed: November 22, 2000 :
Attorney Docket No. DX01087K :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 9, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application is being referred to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
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Mail Date: 05/06/2010

Applicant	: Richard Hans Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7624096	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/721,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Matthew A. Feinberg :
Application No. 09/721,695 : DECISION ON PETITION
Filed: November 24, 2000 :
Attorney Docket No. C24-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 19, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 13

DOWELL & DOWELL PC
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OFFICE OF PETITIONS

In re Application of :
Barwicz et al. :
Application No. 09/721,749 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 14734 CIP :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed March 25, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 26, 2003. A Notice of Abandonment was mailed on November 17, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,084,974 :
Issue Date: August 1, 2006 :
Application No. 09/721,749 : NOTICE
Filed: November 27, 2000 :
Attorney Docket No. 14734 CIP

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Mail Date: 05/06/2010

Applicant	: Richard Hans Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7617183	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/721,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **362** 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.