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Paper No.

Ervin F Johnston
International Business Machines
Corporation
5600 Cottle Road
IP law L2PA/014
San Jose CA 95193

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	
Application No. 09/721,851	:	DECISION ON APPLICATION
Filed: November 24, 2000	:	FOR
Attorney Docket No. SJO919980026US2	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed September 29, 2003, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicants request that the initial determination of patent term adjustment be corrected from one hundred fifty-seven (157) days to three hundred ninety-seven (397) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred sixty-one **(261)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

BACKGROUND

On August 25, 2003, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants was advised that the patent term adjustment to date was 157 days. The period of adjustment of 261 days was reduced by 104 days for applicant delay.

In response, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e)[1]. Applicants request that the patent term adjustment be corrected to 397 days. The basis for this correction is 37 CFR 1.702(a)(1). Applicants contend that the patent term should be adjusted because the application

[1] PALM records indicate that the Issue Fee was received in the Office on October 28, 2003.

was filed November 24, 2000 and the first notification received by the Applicant was in the form of an Office action mailed by the USPTO on February 25, 2003, fourteen months and 397 days after the application filing date. Applicants state that the Office may have mailed a notification prior to the first notification to a wrong address. In support thereof, applicants submitted a copy of a return postcard date-stamped May 29, 2001, and acknowledging receipt in the Office of a "Request for Change of Address" listed thereon. (Applicants do not address the entry of a period of adjustment of 25 days for Office delay in responding to their response filed March 31, 2003. It is noted that this period of adjustment is correct.)

Applicants further state that the patent issuing from the application is not subject to a terminal disclaimer and that there were no circumstances in the prosecution of the application which constituted failure to engage in reasonable efforts to conclude processing or examination.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(i) provides that:

> – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to–
>
> > (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after–
> >
> > > (i) the date on which an application was filed under section 111(a) of this title; or
> > > (II) the date on which an international application fulfilled the requirements of section 371 of this title;

37 CFR § 1.702 provides that:

> (a) Failure to take certain actions within specified time frames . Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> > (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

37 CFR § 1.703 provides, in pertinent part, that:

> (a) The period of adjustment under § 1.702(a) is the sum of the following periods:

> (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

37 CFR § 1.704(b) provides that:

> 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 ...

OPINION

Applicants' arguments and evidence have been considered, in light of the application history, and it has been determined that the initial period of adjustment pursuant to § 1.702(a)(1) is correct. Applicants may not have received the Office action. Nonetheless, the Office did mail a proper first notification under 132 on September 17, 2002.

The record supports a conclusion that a first notice was mailed to applicants at:

> Ervin F. Johnston
> International Business Machines Corporation
> 5600 Cottle Road
> San Jose CA 95193

It is recognized that, as provided in the change of address filed by attorney Johnston on May 29, 2001 (and cited in support of the instant application for patent term adjustment), the first notice should have been mailed to applicants at:

> International Business Machines Corporation
> IP Law L2PA/014
> 5600 Cottle Road
> San Jose CA 95193

Correspondence was mailed to the address specified in the change of address, although the name of the attorney was included in the address and "IBM IP Law L2PA/014" was omitted. Since the correct company name, street address, city and state were used, the correspondence was properly addressed. Accordingly, the period of adjustment was properly calculated as 236 days, counting the number of days beginning on January 25, 2002, the day after the date that is fourteen months after the date on which the application was filed, to September 17, 2002, the date of mailing of the restriction requirement.

Pursuant to 35 U.S.C. 154(b)(1)(A), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after the first 14 months of pendency of the application before the Office, to the extent that the Office failed to make an objection or argument under 35 U.S.C. 132 until September 17, 2002. The fact that the correspondence was subsequently remailed does not alter the fact that the Office did mail an action under 35 U.S.C. 132 to the applicants on September 17, 2002. Accordingly, in this case, it is correct for the Office to use the date of September 17, 2002 in calculating the period of adjustment due to the examination delay in initially acting on this application. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

Thus, it is concluded that, in this instance, the remailing of the action under 35 U.S.C. 132 did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

However, applicants are correct that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the patent application under 37 CFR 1.704. In view of the remailing of the restriction requirement and the restarting of the period for reply, the entry of a period of reduction of 104 days for applicant delay is not warranted. As the record establishes that applicants did not receive the restriction requirement originally mailed September 17, 2002, that date should not be used in calculating applicant delay pursuant to 37 CFR 1.704(b). Rather, the date of remailing of the restriction requirement should be used. As applicants' response to the restriction requirement remailed February 25, 2003, was received in the Office on March 31, 2003, it is concluded that applicants did not take in excess of three months to respond. There was no applicant delay within the meaning of § 1.704(b), and the reduction of 104 days is not warranted.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is two hundred sixty-one (261) days.

CONCLUSION

In view thereof, the petition is **GRANTED** to the extent indicated herein.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 09-0442, as authorized. This fee is required and will not be waived.

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

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

Kery A. Fries
per

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

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OFFICE OF PETITIONS

Dr. Benjamin Adler
McGREGOR & ADLER, LLP.
8011 Candle Lane
Houston TX 77071

In re Application of

Scheinberg, et al.

Application No. 09/721,864

Filed: November 24, 2000

Attorney Docket No. D6126

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 27, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 24, 2009, after it was believed that a proper response was received to the Notice of Allowance and Issue Fee Due mailed December 23, 2008, which set a statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed April 17, 2009.

Petitioner maintains that a proper and timely response to the Notice of Allowance and Issue Fee Due was transmitted via facsimile on March 20, 2009. As evidence of the same, petitioner provides a copy of the transmittal containing a certificate of transmission dated March 20, 2009, and a copy of the petitioner's "Fax Journal Report" indicating that two pages were transmitted to the USPTO facsimile (571) 273-2885 on March 20, 2009.

Petitioner's argument has been considered and is persuasive. Section 711.03(c) of the MPEP provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into

PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

A review of the copy of the fee transmittal sheet reveals that it contains a certificate of mailing dated March 20, 2009, that is signed by Feroza Yesmin, but that petition is signed by Benjamin Aaron Adler. The certificate of transmission indicating that fee transmittal sheet and credit card form was transmitted on March 20, 2008, is corroborated by the "Fax Journal Report" indicating that two pages were transmitted to the USPTO facsimile (571) 273-2885 on March 20, 2009. Petitioner properly used the protections offered by 37 CFR 1.8 and is, therefore, entitled to assert that the fee transmittal and credit card form transmitted March 20, 2009, is timely and complete by virtue of the certificate of transmission dated March 20, 2009, contained thereon. The petition is granted, accordingly.

The issue fee is noted as being paid on April 27, 2009.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to the Office of Data Management for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Hunton & Williams, LLP
1900 K Street, N.W. Suite 1200
Washington, D.C. 20006-1109

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OFFICE OF PETITIONS

In re Application of
Leonard
Application No. 09/722,049
Filed: Nov. 27, 2000
Docket No. 57761.000124

: DECISION REGARDING PTA

This decision is in response to applicants' "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on August 6, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of ZERO(0) days to a determination of six hundred and sixteen (6161) days.

Applicant's application for Patent Term Adjustment is **GRANTED**. The Office will *adjust the PAIR calculation* at the time of the mailing of the notice of allowance to reflect this decision, a 616 day adjustment.

Applicants assert that the Office erred in assessing a 779 day delay by applicant in response to the non-final rejection that was mailed on November 5, 2004. Applicant asserts that the non-final rejection had the clock restarted on February 26, 2007 and applicant had three months from March 26, 2007 to reply without an loss of PTA for failing to meet the requirement of 37 CFR 1.704(b). Applicants assert that they responded on March 26, 2007 within the three-month allotment.

Applicant's arguments are persuasive. The Office notes that the PALM records reflect that the Office mailed a notice of restarted response period along with the interview summary on February 26, 2007. Accordingly, the applicant was entitled to three months to respond from the date that the clock was restarted. The Office restarted the period of response on February 26, 2007. Applicant replied on March 26, 2007, within three months. Accordingly, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b). The overall Office delay was seven hundred and eight days. The delays included 696 days pursuant to 37 CFR 1.702(a)(1) and 12 days under 37 CFR 1.702(a)(2). Applicant delayed by period of ninety-two (92) days under 37 CFR 1.704(b). Accoridngly, overall the correct amount of PTA at the time of the mailing of the notice of allowance is 616 (708-92=616) days.

After the mailing of this decision, the Office will forward the file to the Office of Patent Publication for a prompt issuance of the patent. Any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) or applicants delays pursuant to 37 CFR 1.704(c)(10) will be adjusted at the time of the mailing of the issue notification letter that is mailed to applicants approximately

[1]Issue fee paid on August 6, 2006.

three weeks prior to the issuance of the patent.

The applicants have submitted the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

Any questions concerning this letter should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

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

cc: Adjusted Pair Calculation

Day : Tuesday
Date: 12/11/2007

PALM INTRANET

Time: 15:05:47

PTA Calculations for Application: 09/722049			
Application Filing Date:	11/27/2000	PTO Delay (PTO):	708
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	871
Post-Issue Petitions:	0	Total PTA (days):	616
PTO Delay Adjustment:	779		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	12/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	779		
48	05/08/2007	MAIL NOTICE OF ALLOWANCE			
47	05/08/2007	MAIL EXAMINER'S AMENDMENT			
46	05/08/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	05/03/2007	ISSUE REVISION COMPLETED			
44	05/03/2007	DOCUMENT VERIFICATION			
43	05/02/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	05/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	04/25/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	04/30/2007	EXAMINER'S AMENDMENT COMMUNICATION			
39	04/30/2007	NOTICE OF ALLOWABILITY			
38	04/19/2007	DATE FORWARDED TO EXAMINER			
37	03/26/2007	RESPONSE AFTER NON-FINAL ACTION		779	26
36	02/26/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
35	02/01/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
34	02/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	02/01/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	12/21/2006	MISCELLANEOUS INCOMING LETTER			
30	12/21/2006	MISCELLANEOUS INCOMING LETTER			
29	02/22/2006	MISCELLANEOUS INCOMING LETTER			
28	08/08/2005	CASE DOCKETED TO EXAMINER IN GAU			

27	06/03/2005	MISCELLANEOUS INCOMING LETTER			
26	11/05/2004	MAIL NON-FINAL REJECTION	12		22
25	11/01/2004	NON-FINAL REJECTION			
24	08/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	08/24/2004	DATE FORWARDED TO EXAMINER			
22	06/24/2004	RESPONSE AFTER NON-FINAL ACTION		92	18
21	06/24/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	06/24/2004	WORKFLOW INCOMING PETITION IFW			
19	06/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	12/24/2003	MAIL NON-FINAL REJECTION	696		-1
17	12/12/2003	NON-FINAL REJECTION			
16	10/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
15	08/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	08/19/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	08/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	06/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	06/04/2003	TRANSFER INQUIRY TO GAU			
10	04/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	11/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	08/03/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	05/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	04/27/2001	APPLICATION IS NOW COMPLETE			
4	04/02/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/30/2001	CORRESPONDENCE ADDRESS CHANGE			
2	12/22/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/27/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,946,672 :
Issue Date: September 20, 2005 :
Application No. 09/722,147 :
Filed: November 25, 2000 :
Attorney Docket No. NPS018US :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Paper No. 6

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4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Guang Yang et al. :
Application No. 09/722,249 :
Filed: November 22, 2000 :
Attorney Docket No. 06618/560001 / CIT-3124 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re application of:
Wei Min Chin et al.
Application No. 09/722,341 : DECISION ON REQUEST
Filed: November 28, 2000 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR ASSISTING : ATTORNEY
THE BUYING AND SELLING OF PROPERTY

This is a decision on the request filed on June 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "transfer to new counsel", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

RAR/vdb: 7/13/04

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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TECHNOLOGY CENTER 3600

FISH & RICHARDSON, P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

In re application of
Wei Min Chin et al
Application No. 09/722,341 : DECISION ON REQUEST
Filed: November 28, 2000 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR : ATTORNEY
ASSISTING THE BUYING AND
SELLING OF PROPERTY

This is a decision on the request filed on September 2, 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 the above-identified application is not approved as moot because the attorneys associated with this application have already been withdrawn as per the Notice to that effect mailed November 3, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/dcg: 5/12/05

cc: Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
Mclean, VA 22102

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Okada, Satoru et al
Appl. No.: 09/722,410
Filed: Nov. 28, 2000
Attorney Docket Number: 723-951
For: MEMORY FOR VIDEO GAME SYSTEM AND EMULATOR USING THE MEMORY

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed Jan. 16, 2004 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement under the heading of Other Documents, (total 3 documents) filed Jan. 16, 2004 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been charged.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file. The information has been closed from public view for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner Henry C. Yuen at 571-272-4856.

Decision held in ABEYANCE.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,410	11/28/2000	Satoru Okada	723-951	4624

27562 7590 04/18/2008
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
MOSSER, ROBERT E	
ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

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

The time period for reply, if any, is set in the attached communication.

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NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:
Okada, Satoru et al	:
Appl. No.: 09/722,410	: DECISION ON PETITION
Filed: Nov. 2, 2000	: Under 37 CFR 1.59
Attorney Docket No. 723-951	:
For: MEMORY FOR VIDEO GAME SYSTEM AND EMULATOR USING THE MEMORY	:

This is a response to the petition under 37 CFR 1.59(b), filed on Mar. 5, 2008 by which petitioners request to expunge information from the above identified application.

The petition is granted in part.

Petitioner requests that documents listed on the Information Disclosure Statement under M.P.E.P. § 724 filed on Jan. 16, 2004 be expunged from the record. There were three documents listed in that IDS statement filed on Jan. 16, 2004. The examiner has determined one of the three documents, namely, Game Boy Programming Manual Version 1.0, 11/09/1999, by Nintendo of America, Inc. is relevant to claim invention and applied the same in the final rejection of Jan. 19, 2007. Therefore, this document will not be expunged from this application file. With regard to the other two documents listed in the IDS statement, namely Development Manual Book 1 and Book 2 by Super NES, Oct. 3, 1995, the information in question also has been determined by the undersigned to not be material to the examination and patentability of the instant application as indicated by the examiner in the Notice of Allowance mailed Feb. 28, 2008.

In view of the fact that petitioner has met the requirements of MPEP 724.05(I), the proprietary information disclosure statement (two documents by NES) filed on Jan. 16, 2004 is now removed from the official file and will be destroyed.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

Petition to expunge GRANTED IN PART.

Frederick R. Schmidt, Director
Technology Center 3700

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ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of :
Satoru Okada et al :
Application No. 09/722,410 : DECISION GRANTING PETITION
Filed: November 28, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 723-951 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 6, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 28, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed renewed petition under 37 CFR 1.59(b).

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ARLINGTON VA 22203

7/3/08

In re Application of :
Okada, Satoru et al. : DECISION ON PETITION
Appl. No.: 09/722,410 : UNDER 37 CFR 1.59
Filed: Nov. 28, 2000 :
Attorney Docket Number: 723-951 :
For: MEMORY FOR VIDEO GAME SYSTEM AND :
EMULATOR USING THE MEMORY :
:

This is a renewed decision on the petition under 37 CFR 1.59(b), filed Jun. 6, 2008, to expunge information from the above identified application. The original decision on the petition was granted in part because certain part of information was deemed to be material to the patentability of the examination of the application.

The petition is granted.

Petitioners had requested that a document entitled Information Disclosure Statement under MPEP § 724.02 containing the materials to be expunged are proprietary to Nintendo and are not available to the public from Nintendo. Petitioners had stated that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. In particular, pages 3, 12, 20, 27-28, 30-31, 47-54 and 71 of Game Boy Programming Manual Version 1.0, 11/09/1999, by Nintendo of America, Inc. is relevant to claim invention as applied the same in the final rejection of Jan. 19, 2007. Therefore, pages 3, 12, 20, 27-28, 30-31, 47-54 and 71 of Game Boy Programming Manual Version 1.0, 11/09/1999, by Nintendo of America, Inc. will not be expunged from this application file. The remainder will be expunged and removed from the official file and will not be available for public viewing from the IFW files.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

Any questions regarding this petition decision should be directed to Henry C. Yuen, Technology Center 3700 Special Programs Examiner at 571-272-4856.

Petition to expunge GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN INGERSOLL PC
(ARCHER DANIELS MIDLAND COMPANY)
301 GRANT STREET, 20TH FLOOR
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of
Paul D. Hanke et al
Application No. 09/722,441
Filed: November 28, 2000
Attorney Docket No. 030692

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1652 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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OFFICE OF PETITIONS

In re Application of :
Hideyuki Toriyama et al :
Application No. 09/722,475 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 018775-808 :

This is a decision on the petition, filed March 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2626 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

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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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OFFICE OF PETITIONS

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

In re Application of:
Springer, et al.
Filed: 2928 November, 2000
Application No. 09/722,495
Docket No.: 3DP-0455

ON PETITION

This is a decision on the petitions filed herein on 13 June, 2003, seeking withdrawal of the holding of abandonment in the above-identified application, and therefore considered under 37 C.F.R. §1.181.[1]

NOTE: There is no indication that Petitioner herein was ever empowered to prosecute the instant application.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

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[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *

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

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

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

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

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

For the reasons set forth below, the petition considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED** and no fee is charged.

BACKGROUND

A review of the record reveals:

- it appeared that Petitioner failed to respond timely and properly to the final Office action mailed on 5 November, 2002, with reply due (absent extension of time) on or before 5 February, 2003;
- the instant application was deemed abandoned at midnight 5 February, 2003;
- Notice of Abandonment was mailed on 18 June, 2003;
- Petitioner filed via FAX on 2 July, 2003, the instant petition, including therewith copies of:

  --a Notice of Appeal (with fee) (in compliance with 37 C.F.R. §1.191[2]) alleged to

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[2] The regulations at 37 C.F.R. §1.137 provide:

§Appeal to Board of Patent Appeals and Interferences.

(a) Every applicant for a patent or for reissue of a patent, and every owner of a patent under *ex parte* reexamination filed under §1.510 for a patent that issued from an original application filed in the United States before November 29, 1999, any of whose claims has been twice or finally (§1.113) rejected, may appeal from the decision of the examiner to the Board of Patent Appeals and Interferences by filing a notice of appeal and the fee set forth in § 1.17(b) within the time period provided under §§ 1.134 and 1.136 for reply. Notwithstanding the above, for an *ex parte* reexamination proceeding filed under § 1.510 for a patent that issued from an original application filed in the United States on or after November 29, 1999, no appeal may be filed until the claims have been finally rejected (§ 1.113).Appeals to the Board of Patent Appeals and Interferences in *inter partes* reexamination proceedings filed under § 1.913 are controlled by § § 1.959 through 1.981.Sections 1.191 through 1.198 are not applicable to appeals in *inter partes* reexamination proceedings filed under § 1.913.

(b) The signature requirement of § 1.33 does not apply to a notice of appeal filed under this section.

(c) An appeal when taken must be taken from the rejection of all claims under rejection which the applicant or patent owner proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

(d) The time periods set forth in §§1.191 and 1.192 are subject to the provisions of § 1.136 for patent applications and § 1.550(c) for reexamination proceedings. The time periods set forth in § § 1.193 1.194, 1.196 and 1.197 are subject to the provisions of § 1.136(b)for patent applications or § 1.550(c) for reexamination proceedings. See §1.304(a)for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action.

(e) Jurisdiction over the application or patent under reexamination passes to the Board of Patent Appeals and Interferences upon transmittal of the file, including all briefs and examiner 's answers, to the Board. Prior to the entry of a decision on the appeal, the Director may *sua sponte* order the application remanded to the examiner.

[46 FR 29183, May 29, 1981; para. (a), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (d), 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984, 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; paras. (b) and (d) amended, para. (e) added, 54 FR 29553, July 13, 1989, effective Aug. 20, 1989; para. (d) revised, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; paras. (a) and (b) revised, 62 FR 53131, Oct. 10, 1997.

have been filed on 28 April, 2003;

--a request (with fee authorization on a credit card payment form) for a three- (3-) month extension of time alleged to have been filed on 28 April, 2003; and

--a date stamped (28 April, 2003) receipt card (see: MPEP §503[3]) reflecting Office receipt by the Office of, inter *alia*, the Notice of Appeal (and fee) and the

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effective Dec. 1, 1997; para. (a) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (e) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

[3] The commentary at MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

37 C.F.R. §1.54. Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53(f) and (g) with regard to completion of an application

* * *

If a self-addressed postcard is submitted with a patent application, that postcard will be provided with both the receipt date and application number prior to returning it to the addressee. The application number identified on such a postcard receipt is merely the preliminary assignment of an application number to the application, and should not be relied upon (e.g., with respect to foreign filings) as necessarily representing the application number assigned to such application. See 37 C.F.R. 1.53(b). The identifying data on the postcard should include:

(A) applicant's name(s);

(B) title of invention;

(C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing;

(D) whether oath or declaration is included;

(E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and or provisional application cover sheet); and

(F) amount and manner of paying the fee.

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

* * *

RETURN POSTCARD

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

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

request (and fee) for extension of time;

- Office records reflect payment of the fees for the Notice of Appeal and the extension of time.

Notably, however, Petitioner has yet to file the Appeal Brief, which was due absent extension of time on Monday 30 June, 2003 (28 June, 2003, having been a Saturday) in compliance with 37 C.F.R. §1.192.[4]

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[4] The regulations at 37 C.F.R. §1.192 provide.

§1.192 Appellant 's brief.

(a) Appellant must, within two months from the date of the notice of appeal under §1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. The brief must be accompanied by the fee set forth in § 1.17(c)and must set forth the authorities and arguments on which appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.

(b) On failure to file the brief, accompanied by the requisite fee, within the time allowed, the appeal shall stand dismissed.

(c) The brief shall contain the following items under appropriate headings and in the order indicated below unless the brief is filed by an applicant who is not represented by a registered practitioner:

(1) *Real party in* interest. A statement identifying the real party in interest, if the party named in the caption of the brief is not the real party in interest.

(2) *Related appeals and* interferences. A statement identifying by number and filing date all other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) *Status of claims* .A statement of the status of all the claims, pending or cancelled, and identifying the claims appealed.

(4) *Status of amendments* .A statement of the status of any amendment filed subsequent to final rejection.

(5) *Summary of* invention. A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

(6) Issues. A concise statement of the issues presented for review.

(7) *Grouping of* claims. For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8)of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.

(8) Argument. The contentions of appellant with respect to each of the issues presented for review in paragraph (c)(6)of this section, and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on. Each issue should be treated under a separate heading.

(I) For each rejection under 35 U.S.C. 112, first paragraph, the argument shall specify the errors in the rejection and how the first paragraph of 35 U.S.C. 112 is complied with, including, as appropriate, how the specification and drawings, if any,

(A) Describe the subject matter defined by each of the rejected claims,

(B) Enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and

(C) Set forth the best mode contemplated by the inventor of carrying out his or her invention.

(ii)For each rejection under 35 U.S.C. 112, second paragraph, the argument shall specify the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(iii) For each rejection under 35 U.S.C. 102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

(iv) For each rejection under 35 U.S.C. 103, the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art. If the rejection is based upon a combination of references, the argument shall explain why the references, taken as a whole, do not suggest the claimed subject matter, and shall include, as may be appropriate, an explanation of why features disclosed in one reference may not properly be combined with features disclosed in another reference. A general argument that all the limitations are not described in a single reference does not satisfy the requirements of this paragraph.

(v) For any rejection other than those referred to in paragraphs (c)(8)(I)to (iv)of this section, the argument shall specify the errors in the rejection and the specific limitations in the rejected claims, if appropriate, or other reasons, which cause the rejection to be in error.

(9) Appendix. An appendix containing a copy of the claims involved in the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c)of this section, appellant will be notified of the reasons for noncompliance and provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[6]

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

And the Petitioner must be diligent in attending to the matter.[9] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

[36 FR 5850,Mar.30,1971;para.(a),47 FR 41278, Sept.17,1982,effective Oct.1,1982;para.(a),49 FR 556, Jan.4, 1984, effective Apr.1,1984; 53 FR 23734, June 23, 1988,effective Sept.12, 1988; para. (a), (c), and (d) revised, 58 FR 54504,Oct.22,1993,effective Jan.3,1994; paras.(a)-(c)revised,60 FR 14488,Mar 17,1995,effective Apr.21,1995;para.(a)revised,62 FR 53131,Oct.10, 1997,effective Dec.1,1997]

[5] 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

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.[11]

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[12]

In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[13] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[14]

The Petitioner has made a satisfactory showing of timely and proper reply to the final Office action of 5 November, 2002.

:

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, and the Notice of Abandonment of 18 June, 2003, hereby is **vacated**.

The instant application file is being forwarded to Technology Center 1600 to await the filing of Petitioner's Appeal brief in conformance with 37 C.F.R. §1.192 (and request and fee for extension of time under 37 C.F.R. §1.136[15]).

---

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

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

[13] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

[15] The regulations at 37 C.F.R. §1.136 provide:

§1.136 Extensions of time.

(a)(1)If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply,if a petition for an extension of time and the fee set in §1.17(a)are filed,unless:

(i)Applicant is notified otherwise in an Office action;

(ii)The reply is a reply brief submitted pursuant to § 1.193(b);

(iii)The reply is a request for an oral hearing submitted pursuant to § 1.194(b);

(iv)The reply is to a decision by the Board of Patent Appeals and Interferences pursuant to §1.196,§1.197 or § 1.304;or

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:
WOODCOCK WASHBURN
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA PA 19103

(c) The application is involved in an interference declared pursuant to § 1.611.
(2) The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. A reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application (§ 1.135), but in no situation may an applicant reply later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.136(b) for extensions of time relating to proceedings pursuant to §§ 1.193(b), 1.194, 1.196 or 1.197; § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550(c) for extensions of time in *ex parte* reexamination proceedings; § 1.956 for extensions of time in *inter partes* reexamination proceedings; and § 1.645 for extensions of time in interference proceedings.
(3) A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission.
(b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. See § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.645 for extensions of time in interference proceedings; § 1.550(c) for extensions of time in *ex parte* reexamination proceedings; and § 1.956 for extensions of time in *inter partes* reexamination proceedings.
(c) If an applicant is notified in a "Notice of Allowability" that an application is otherwise in condition for allowance, the following time periods are not extendable if set in the "Notice of Allowability" or in an Office action having a mail date on or after the mail date of the "Notice of Allowability":
(1) The period for submitting an oath or declaration in compliance with § 1.63;
(2) The period for submitting formal drawings set under § 1.85(c); and
(3) The period for making a deposit set under § 1.809(c).
[47 FR 41277, Sept. 17, 1982, effective Oct. 1, 1982; 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 54 FR 29551, July 13, 1989, effective Aug. 20, 1989; para. (a) revised; 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (c) added; 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) & (a)(2) and (b) revised; 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (c) revised; 66 FR 21090, Apr. 27, 2001, effective May 29, 2001.]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS
525 WEST MONROE STREET
CHICAGO, IL 60661

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JAN 25 2002

OFFICE OF PETITIONS

In re Application of :
Michael Stumm et al :
Application No. 09/722,500 : DECISION NOTING JOINDER OF
Filed: November 28, 2000 : INVENTOR AND PETITION
For: TELECOMMUNICATION : UNDER 37 CFR 1.47(a) MOOT
ARCHITECTURE :

This is a decision on the petition under 37 CFR 1.47(a) filed July 30, 2001. Papers filed on September 10, 2001 included a Declaration signed by previously nonsigning inventor Mauricio De Simone in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center AU 2642 for examination in due course.

Inquiries related to this decision may be addressed to Wan Laymon at (703) 306-5685.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 20, 2006

TO SPE OF : ART UNIT 2634

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/722,749 Patent No.: 6,853,681

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:

Errors to be corrected are all typographical. All requested corrections approved.

[signature] 2611

SPE **Art Unit**

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,853,681
APPLICATION NO.: 09/722,749
ISSUE DATE : February 8, 2005
INVENTOR(S) : LINDOFF

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

Column 2, Line 11: Change "*wireless*" to --*Wireless*--

Column 3, Line 53: Change "Viterbi rd equalization," to --Viterbi equalization,--

Column 7, Line 1: Change " $\text{synch.pos} = \text{ceil}\left\{\frac{\sum_{i=0}^{w-1} i\,|c_i|^2}{\sum_{i=0}^{w-1}|c_i|^2} - L/2\right\}$ " to

-- $\text{synch.pos} = \text{ceil}\left\{\frac{\sum_{i=0}^{w-1} i\,|c_i|^2}{\sum_{i=0}^{w-1}|c_i|^2} - L/2\right\}$ --

Column 7, Line 32: Change " $y_t = \sum_{i=0}^{L} h_i u_{t-1} + e_i$ " to -- $y_t = \sum_{i=0}^{L} h_i u_{t-i} + e_i$ --

Column 8, Line 44: Change "proceeds to step **318**" to --proceeds to step **318**--

Claim 1, Line 6: Change "selection on is" to --selection is--

Claim 7, Line 6: Change "seen is based" to --selection is based--

Claim 11, Line 8: Change "receiver using selected" to --receiver using the selected--

Claim 15, Line 10: Change " being used in th data" to --being used in the data--

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

Kenneth B. Leffler, Reg. No. 36,075
Potomac Patent Group PLLC P.O. Box 270 Fredericksburg, VA 22404

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Michelle M. LeCointe
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

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AUG 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Park, Ye, Lee, and Hwang :
Application No. 09/722,770 : DECISION ACCORDING STATUS
Filed: December 27, 2000 : UNDER 37 CFR 1.47(a)
Title: METHOD FOR CELL SELECTION OF ASYNCHRONOUS MOBILE STATION IN ASYNCHRONOUS MOBILE COMMUNICATION SYSTEM :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 14, 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to Lesley Morris at (703) 306-0028.

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Woon-Hee Hwang
Keilalhdentie 4
FIN-02150
ESPOO, FINLAND

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AUG 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Park, Ye, Lee, and Hwang
Application No. 09/722,770
Filed: December 27, 2000
For: METHOD FOR CELL SELECTION OF ASYNCHRONOUS MOBILE STATION IN ASYNCHRONOUS MOBILE COMMUNICATION SYSTEM

Dear Ms. Hwang:

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

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

Telephone inquiries regarding this communication should be directed to Lesley Morris at (703) 306-0028. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

for

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

Michelle M. LeCointe
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC98 JUL 22 2004 PATENT & TRADEMARK OFFICE

RECEIVED: 3-29-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 03-29-04
Type of Resp(s): _____
Due Date(s): _____

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 26 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Hiroki Nonaka :
Application No. 09/722,881 :
Filed: November 28, 2000 :
Attorney Docket No. 200096US3 :

This is a decision on the petition, filed March 25, 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 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3722 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MR. S.H. DWORETSKY
AT & T CORP.
ONE AT & T WAY
ROOM 2A-207
BEDMINSTER, NJ 07921

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JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Yonatan Aharon Levy, et al. :
Application No. 09/722,898 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 2000-0048 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 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 October 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on January 28, 2005.

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 future correspondence solely to the address of record.

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

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

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

Retta Williams

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

cc: Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Vardi et al.	:	
Application No. 09/722,936	:	ON PETITION
Filed: November 27, 2000	:	
Attorney Docket No. P/1318-115	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 5, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ELAINE VENTURELLI
IBM INTELLECTUAL PROPERTY LAW DEPARTMENT
8051 CONGRESS AVENUE
INTERNAL ADDRESS 1087
BOCA RATON, FL 33487

In re Patent of Vardi et al. :
Patent No. 6,996,807 :
Issue Date: February 7, 2006 : Letter
Application No. 09/722,936 :
Filing Date: November 27, 2000 :
Attorney Docket No. P/1318-115 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 18, 2009.

The deficiency payment of $490 is hereby accepted.

The change of status to large entity has been entered and made of record.

The current practitioners of record are the practitioners associated with Customer No. 58484. The power of attorney filed with the request does not revoke the prior power of attorney. Office procedures do not allow practitioners associated with a customer number and a practitioner not associated with the customer number to both have power of attorney at the same time. Therefore, the power of attorney filed with the request cannot be accepted.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Lynne D. Anderson
Sr. Program Manager
IBM Corporation
Suite 635
333 John Carlyle St.
Alexandria, VA 22314

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Commissioner for Patents
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JUL 0 7 2005

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, Illinois 60606

In re Application of
Fijolek et al.
Application No. 09/722,939
Filed: November 27, 2000
Attorney Docket No. 99,837-A

: DECISION GRANTING PETITION

This application for PTA is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.703(B)" timely[1] filed on February 4, 2005 requesting that the Office adjust the amount of PTA at the time of the mailing of the notice of allowance from a determination of seven hundred and eighty-four (784) days to a determination of eight hundred and seven (807).

Applicants request for reconsideration is **GRANTED.** The Office will adjust the PTA calculation to reflect a determination at the time of the mailing of the notice of allowance of 807 days.

Specifically, applicants assert that the eight hundred and one (801) days of adjustment pursuant to 37 CFR 1.702(a)(1) and the ten days of USPTO delay pursuant to 37 CFR 1.702(a)(2) are accurate. Applicants further assert that the Office erred in holding that applicants were twenty-seven (27) days late in responding within three months to the USPTO notice to file missing parts. Applicants assert that the postcard stamp reflect that the Office received the response to the missing parts on July 9, 2001 not August 1, 2001. Accordingly, applicants assert that the Office erred in assessing too much delay for applicants failure to reply to the notice to file missing parts within three months.

Applicants arguments are persuasive. The Office has reviewed the file and determined that the response to the missing parts notice was actually fully responded to on July 9, 2001 as suggested by applicants. Accordingly, applicants were only four days late in the response.[2] Accordingly, the correct determination at the time of the mailing of the notice of allowance is 807 (811-4=807) days as suggested by applicant.

After the mailing of this decision, the patent application will be forwarded to the Office of Patent

---

[1]Issue fee was paid on February 4, 2005.

[2]Note that applicants are given three months to reply without a PTA reduction regardless of whether applicant had received a shortened statutory period such as in this case which set two months as the reply period. See 37 CFR 1.704(b).

Publication for a prompt issuance of the patent. Any delays in issuance of the patent will be reflected in the PTA determination provided with the issue notification letter that is mailed approximately three weeks prior to the issuance of the patent.

Applicants have paid the $200.00 application fee as noted in 1.18(e). No additional fees are required for this decision.

Any questions concerning this decision should be addressed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy.

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

cc: copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SONNENSCHEIN NATH & ROSENTHAL
WACKER DRIVE STATION
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CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Yuji Hiraoka et al :
Application No. 09/722,940 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 30012740-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 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 January 3, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $460.00 extension of time submitted with the petition on April 29, 2002 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 2853.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: APR 18 2005

WAK

In re application of
Smalley et al.
Serial No. 09/722,950
Filed: November 27, 2000
For: METHOD OF MAKING ROPES OF SINGLE-WALL CARBON NANOTUBES

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed February 24, 2005 for failure to respond to the Office Action dated February 8, 2002.

Applicants assert that they became aware for the first time that the application was abandoned after receiving a Notice of Allowance for the divisional of this application on February 4, 2005. This current application was listed as being abandoned.

DECISION

This petition request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request does have merit.

Applicants have provided a copy of their docket reports showing no receipt of an Office Action or Notice of Abandonment for the application. Applicants have also made a complete search of the files in the Attorney's offices in order to determine if an office letter had been received.

Applicants also provide evidence of two Status Inquires that were filed with the PTO on February 21, 2003 and March 11, 2004 in which the PTO did not respond to.

Applicants filed a change of correspondence address on October 29, 2004 and have provided evidence that the PTO received this document. The PTO advised applicants that a Change of Address was filed for this application on February 28, 2001. Applicants have no record of such Change of Address being filed on that date.

The holding of abandonment, set forth in the Notice of Abandonment of February 11, 2003 is withdrawn

09/722,950

The application is returned active status and forwarded to the examiner of record for re-mailing of the Office Action that was not received. The action will be mailed to the correspondence address that was filed on October 29, 2004.

The petition is **GRANTED.**

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

Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

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Mailed: APR 18 2005

WAK

In re application of
Smalley et al.
Serial No. 09/722,950
Filed: November 27, 2000
For: METHOD OF MAKING ROPES OF SINGLE-WALL CARBON NANOTUBES

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed February 24, 2005 for failure to respond to the Office Action dated February 8, 2002.

Applicants assert that they became aware for the first time that the application was abandoned after receiving a Notice of Allowance for the divisional of this application on February 4, 2005. This current application was listed as being abandoned.

DECISION

This petition request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request does have merit.

Applicants have provided a copy of their docket reports showing no receipt of an Office Action or Notice of Abandonment for the application. Applicants have also made a complete search of the files in the Attorney's offices in order to determine if an office letter had been received.

Applicants also provide evidence of two Status Inquires that were filed with the PTO on February 21, 2003 and March 11, 2004 in which the PTO did not respond to.

Applicants filed a change of correspondence address on October 29, 2004 and have provided evidence that the PTO received this document. The PTO advised applicants that a Change of Address was filed for this application on February 28, 2001. Applicants have no record of such Change of Address being filed on that date.

The holding of abandonment, set forth in the Notice of Abandonment of February 11, 2003 is withdrawn

The application is returned active status and forwarded to the examiner of record for re-mailing of the Office Action that was not received. The action will be mailed to the correspondence address that was filed on October 29, 2004.

The petition is **GRANTED.**

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

Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

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McDonnell Boehnen Hulbert & Berghoff LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of :
John G. Fijolek, et al. :
Application No. 09/722,980 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 00-1133 :

This is a decision on the petition filed October 20, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

A Notice of Drawing Inconsistency with Specification (Notice) was mailed to applicant on June 6, 2005, which set a one (1) month or thirty (3) day period (whichever was longer) for reply. As no reply was allegedly received, the application became abandoned on July 7, 2005.

Petitioner avers that a substitute drawing was filed via certificate of mailing under the provisions of 37 CFR 1.8 on July 6, 2005, which was received in the USPTO on July 8, 2005. Accompanied by the drawing were a transmittal letter and "the original Response to Notice of Drawing Inconsistency with Specification and Submission of Substitute Drawing Sheet." The transmittal letter listed the application number as 09/722,**890**, which is incorrect, but the application number was properly noted on all of the other submitted documents.

Upon conducting a research, the Office has discovered the drawing, the transmittal letter, and the copy of the Notice were, in fact, associated with application number 09/722,890. However, it is also confirmed that the papers (other than the transmittal letter) did list the application number correctly. There was enough information provided to associate all of the documents, including the substitute drawing, with the proper application. In view thereof, the Office erred in placing the papers in the wrong application file.

Accordingly, the present application was improperly held abandoned and the abandonment is hereby withdrawn. No petition fee has been charged to petitioner's deposit account.

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

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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Paper No. 16

TIMOTHY N. TROP
TROP, PRUNER & HU, P.C.
8554 KATY FWY, STE 100
HOUSTON TX 77024-1805

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Acharya et al. :
Application No. 09/722,988 : ON PETITION
Filed: 27 November, 2000 :
Atty Dcket No. INTL-0514-US (P9822) :

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

The petition is **GRANTED**.

The application became abandoned on 27 March, 2004, for failure to timely file a new Appeal Brief in triplicate as required by the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on

---

[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)).

26 February, 2004, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 6 May, 2004.

The petition is accompanied by a copy of the Appeal Brief in triplicate.

The application is being forwarded to Technology Center 2600 for review of applicants' Appeal Brief.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Goronzy et al.	:	DECISION ON APPLICATION
Application No. 09/723,000	:	FOR
Filed: November 27, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 07039-170002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed January 5, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to three hundred fifty (350) 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 three hundred fifty (350) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 6, 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 0 days. On January 5, 2005, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants dispute the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicants maintain that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 477 days.

[1] PALM records indicate that the Issue Fee was also received on January 5, 2005.

Specifically, applicants state that such action was mailed on May 19, 2003, 477 days after the fourteen-month date. Applicants contend that the communication mailed July 2, 2002, is not a first action on the merits as provided in 35 USC §132, and thus, does not meet the requirement of 35 U.S.C. §154(b)(1)(A)(i) of the PTO to mail at least one of either a notification under 35 U.S.C. §132 or a notice of allowance for patent term adjustment calculation purposes in 37 CFR §1.703(a)(1). Moreover, applicants state that their response to the Office communication mailed July 2, 2002, was mailed to the Office on July 15, 2002 (and received on July 22, 2002), and thus, there was no applicant delay associated with this response.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application are correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred fifty (350) days (477 days of Office delay reduced by 127 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 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

Attachment: Copy of Revised PAIR Screen

EXHIBIT A
11-6-02

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#22

CROMPTON SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

In re Application of :
Thomas E. Broome :
Serial No.: 09/723,003 :
Filed: November 27, 2000 :
For: Distal Protection Device and :
Method :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313(b)

This is in response to applicant's Petition filed August 21, 2003, "Request to Withdraw from issue under 37CFR 1.313(a)". Accordingly, issue fee has been paid therefore petition will be treated under 37CFR 1.313(b).

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to John E. Kittle at (703) 308-0873.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle
Director
Technology Center 3700/2900

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CROMPTON SEAGER & TUFTE LLC
1221 NICOLLET AVENUE
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MINNEAPOLIS, MN 55403-2420

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of :
Thomas E. Broome et al :
Application No. 09/723,003 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. 1001.1350102 :

This is a decision on the petition under 37 CFR 1.314, filed October 3, 2005, to defer issuance of the instant application into a patent.

The petition is granted.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, since the deferral period has now passed, the application will be returned to Publishing Division for processing into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

There is no indication that the person signing the instant petition was ever given a power of attorney to prosecute the above-identified application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (571) 272-4200.

This application is being forwarded to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas E. Friebel
JONES DAY
222 East 41st Street
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

KATTEN MUCHIN
ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of :
Tsukamoto :
Application No. 09/723,117 : DECISION
Filing Date: 27 November, 2000 :
Attorney Docket No.: FUJO 18.00 (100794-11557) :

This is a decision on the petition filed on 8 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed 3 November, 2004, with reply due absent extension of time on or before 3 February, 2005;
- the instant application went abandoned after midnight 3 February, 2005;
- it appears that Petitioner changed address without timely and proper Notice to the Office, and the Office action was returned on 12 November, 2005, as undelivered, and thereafter, on 12 May, 2006, Petitioner Noticed the Office as to a change of address;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 8 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

---

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

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

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

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

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

constitute the care required under Pratt,[6] 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.[7]))

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 8 June, 2006) does not necessitate a finding that the delay between midnight 3 February, 2005 (date of abandonment), and 8 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 Petitioner Tsukamoto and Counsel Linda S, Chan (Reg. No. 42,400) when accepting Petitioners' representation that the delay in filing the response was unintentional.[8]

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

CONCLUSION

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

The instant application is released to Technology Center 2600 for further processing in due course.

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[6] 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).

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

[8] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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

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

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NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of :
Satashi ESAKA :
Application No. 09/723,161 : ON PETITION
Filed: November 27, 2000 :
Attorney Docket No. FUJZ 18.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 19, 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 February 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 19, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2681 for appropriate action on the concurrently filed amendment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

Victoria M. Malia, Esq.
Norris McLaughlin & Marcus, P.A.
30th Floor
220 East 42nd Street
New York NY 10017

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APR 2 4 2002

OFFICE OF PETITIONS

In re Application of
Gerhard Benner, Astrid Heptner, and Anja Knuppel
Application No. 09/723,189
Filed: November 27, 2000
Attorney Docket No. Beiersdorf 670
Title: COSMETIC AND DERMATOLOGICAL LIGHT PROTECTION FORMULATIONS IN THE FORM OF O/W MACROEMULSIONS OR O/W MICROEMULSIONS CONTAINING SHEA BUTTER

DECISION ON PETITION

This is a decision on the petition filed on January 23, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 23, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 24, 2001. A Notice of Abandonment was mailed on December 12, 2001.

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.

With the instant petition, the petitioner has submitted the petition fee, an amendment, and has made a statement of unintentional delay. Petitioner has also submitted $920.00 for a three month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[2]. Accordingly, since the $ 920.00 extension of time submitted with the petition on January 23, 2002 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 processing.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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FISH & RICHARDSON P.C.
SUITE 2800
45 ROCKEFELLER PLAZA
NEW YORK , NY 10111

In re Application of :
Keiji Negi : DECISION GRANTING
Application No. 09/723,194 : PETITION
Filed: November 27, 2000 :
Attorney Docket No. 10830-048001 :

This is a decision on the "Response to Notice of Incomplete Application and Petition that Application be Accorded Filing Date", filed April 17, 2001, which is properly treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 27, 2000.

The application was deposited on November 27, 2000. However, on March 26, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application (Notice), stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings.

Petitioner has submitted declarations stating that the six (6) sheets were included with the application as filed on November 27, 2000. This argument is not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawings were filed on November 27, 2000, since no such drawings are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declarations relied on contain the declarants' recall of routine events which occurred almost five (5) months earlier and are not more persuasive than the record of what was filed as shown by the official file.

Petitioner has further submitted a postcard receipt which contains the text "Drawings ___Sheets Formal __6__Sheets Informal". The postcard was stamped with a date of November 27, 2000, and was also provided with the following notation by an Office employee: "The PTO did not receive the following item(s): 6 sheets of formal drawings".

Petitioner argues that the notation on the postcard merely indicates that no formal drawings were received. The proposition

is set forth that because six (6) sheets of informal drawings were received, the application is entitled to a filing date of November 27, 2000. The notation found on petitioner's postcard receipt is an indication that the Office employee who opened the Express Mail envelope checked the application papers received in the envelope for drawings, but none were found.

Petitioner states that a certified copy of the priority document was also submitted, which contains drawings which are "substantially the same as the informal drawings discussed above"[1].

The petition is accompanied by a copy of the six (6) sheets of informal drawings purportedly filed on November 27, 2000, and a copy of the six (6) sheets of drawings supplied in the priority document.

A comparison of the six (6) sheets of drawings supplied in the priority document with the six (6) sheets of informal drawings supplied on April 17, 2001, reveals that the drawings are identical, except for the English language descriptive matter found in the informal drawings supplied on April 17, 2001. Accordingly, on petition, the six (6) sheets of drawings supplied in the priority document may be construed as the drawings described in the specification for this application.

In view of the above, the petition to accord the application a filing date of November 27, 2000, with the drawings filed in the priority document as the original drawings for this application is granted.

It is noted that the drawings filed on November 27, 2000, include descriptive matter in a language other than English. Accordingly, this application is properly treated as an application filed in a language other than English. An English language translation of the non-English language application, a statement that the translation is accurate, and the fee set forth in 37 CFR 1.17(k) are required. In order to satisfy this requirement, petitioner may rely on the six (6) sheets of informal drawings supplied on April 17, 2001, as the English language translation, if the English language descriptive matter found in those drawings is an accurate translation of the non-English language descriptive matter found in the drawings filed in the priority document and petitioner files a statement to that effect.

Petitioner is given **TWO MONTHS** from the mailing date of this decision to file the English language translation, the statement that the translation is accurate, and the fee set forth in 37 CFR

---

[1]See Page 2 of the petition.

1.17(k) in order to avoid abandonment of the application. This time period may be extended under 37 CFR 1.136(a).

The application is being returned to OIPE to await the response required above and for further processing with a filing date of November 27, 2000, including an indication in Office records that six (6) sheets of drawings were present on filing.

Petitioner's Deposit Account has been charged in the amount of $130, as authorized by the petition.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for

Beverly M. Flanagan
Supervisory 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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FISH & RICHARDSON P.C.
CITIGROUP CENTER 52ND FLOOR
153 EAST 53RD STREET
NEW YORK, NY 10022-4611

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of
Negi
Application No. 09/723,194
Filed: November 27, 2000
Attorney Docket No. 10830-048001

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed February 11, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(a) is **dismissed as moot.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application was deemed abandoned as of December 8, 2004. A Notice of Abandonment was mailed on January 20, 2005.

Petitioner has established the Notice of Allowance was never received.

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

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will not be charged to petitioner's deposit account.

The Office of Publications will be informed the application has been revived so that it may take steps to issue the application as a patent.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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PATTERSON THUENTE SKAAR & CHRISTENSEN PA
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OFFICE OF PETITIONS

In re Application of :
Tadashi Goino :
Application No. 09/723,228 : DECISION ON PETITIONS
Filed: November 27, 2000 :
Attorney Docket No. 2842.01US01 :

This is a decision on the "PETITION TO EXPUNGE UNINTENTIONALLY SUBMITTED INFORMATION", filed June 13, 2006.

The petition to expedite is **DISMISSED**.

Petitioner 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 to Expunge Unintentionally Submitted Information" and should only address the deficiencies noted below. Any extensions of time will be governed by 37 CFR 1.136(a).

As set forth in MPEP 724.05, a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Here, the instant petition has not included the $200 petition fee as set forth in 37 CFR 1.17(g). Rather, the petition only included an authorization to charge the petition fee set forth in 37 CFR 1.17(h) - $130. No authorization to charge any additional fees was included. Accordingly on renewed petition, petitioner must submit the $200 petition fee as set forth in 37 CFR 1.17(g).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OFFICE OF PETITIONS

In re Application of :
Tadashi Goino :
Application No. 09/723,228 : DECISION ON PETITIONS
Filed: November 27, 2000 :
Patent No. 7,110,961 :
Issued: September 19, 2006 :
Attorney Docket No. 2842.01US01 :

This is a decision on the renewed "PETITION TO EXPUNGE UNINTENTIONALLY SUBMITTED INFORMATION", filed October 24, 2006.

The petition to expunge is **DISMISSED**.

Petitioner 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 to Expunge Unintentionally Submitted Information" and should only address the deficiencies noted below. Any extensions of time will be governed by 37 CFR 1.136(a).

As set forth in MPEP 724.05, a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Applicant filed a petition to expunge on June 14, 2006. The petition was dismissed in a decision mailed on October 2, 2006, because applicant did not submit the $200 petition fee in full. However, subsequent to the petition being filing, but prior to the decision, the application issued into Patent No. 7,110,961 on September 19, 2006. Accordingly, the renewed petition can not be granted because the Office can not effect such return prior to issuance of the application.

The $200 petition fee submitted on October 24, 2006 has been refunded to Deposit Account No. 16-0631.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	10

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted 37 CFR §1.84(b)(1) (FILED 11/13/02

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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CHICAGO IL 60690-2786

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OFFICE OF PETITIONS

In re Application of :
Calenoff et al. :
Application Number: 09/723,307 :
Attorney Docket Number: 21417/91482 :
Filing Date: November 27, 2000 :
Title of Invention: Immunogenic Cancer Peptides and Uses Thereof :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed on July 20, 2004. The petition is properly treated under 37 CFR 3.81 (b)

The petition is **Dismissed**.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

A request to correct an incomplete or erroneous assignee's name furnished in item 3 of PTOL-85B, applicant must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) provide a certificate of correction;

(C) provide the fee set forth in 37 CFR 1.20 and

(D) provide the processing fee set forth in 37 CFR 1.17(i)

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, Pennsylvania 19103

In re Application of: Tomy K. Isaac et al.
Application No. 09/723,324
Filed: November 27, 2000
For: PERSONALIZED ACCOUNT MIGRATION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed October 2, 2003, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant ***must provide*** one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission is deficient because no references have been submitted. 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

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Paper No. 10

Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, Pennsylvania 19103

MAILED

JAN 13 2004

Technology Center 2100

In re Application of: Tomy K. Isaac et al.	)	
Application No. 09/723,324	)	**DECISION ON PETITION TO**
Filed: November 27, 2000	)	**MAKE SPECIAL UNDER 37**
For: PERSONALIZED ACCOUNT	)	**C.F.R. §1.102(d) AND M.P.E.P.**
MIGRATION SYSTEM AND	)	**§708.02(II): INFRINGEMENT**
METHOD	)	

This is a decision on the petition, filed December 19, 2003, requesting reconsideration of the decision mailed October 2, 2003 dismissing Applicants request to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

The original petition was dismissed for failure to provide any references thus not meeting the requirement of providing a "copy of each of the references deemed most closely related to the subject matter encompassed by the claims."

Applicant now provides a copy of two reference "relied upon in Applicant's Petition". In a telephone conversation with the undersigned on January 7, 2004 Applicant's representative, Edward F. Behm, confirmed that this phrase was meant to convey that the submitted references were deemed most closely related to the subject matter encompassed by the claims.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application is being forwarded to the Examiner of record for expedited prosecution.

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

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JENKINS & WILSON, PA
3100 TOWER BLVD
SUITE 1400
DURHAM NC 27707

JUL 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Leandra Vicci, et al.
Application No. 09/723,356
Filed: November 27, 2000
For: **METHODS AND SYSTEMS FOR REACTIVELY COMPENSATING MAGNETIC CURRENT LOOPS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 2, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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BLACKWELL SANDERS PEPER MARTIN, LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

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OFFICE OF PETITIONS

In re Application of
Winegarden et al.
Application No. 09/723,400
Filed: November 27, 2000
Attorney Docket No. 718188.1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 6, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely and properly reply within three months to the final Office action mailed June 12, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on December 13, 2003.

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

The Notice of Appeal filed January 6, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

This matter is now being forwarded to Technology Center 1700 for further processing.

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

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

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MCI, INC
1133 19TH STREET NW
WASHINGTON, DC 20036

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Dave McDysan, et al. :
Application No. 09/723,482 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No.: RIC-00-033 :
:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 18, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2662 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : August 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Dave McDysan, et al.
Application No. : 09/723,482
Filed : November 28, 2000

The above-identified application has been assigned Patent No. 6,928,081 and an issue date of August 9, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 9, 2005:

> "All reference to Patent No. 6,928,081 to DAVE MCDYSAN, ET AL. of VIRGINIA for NETWORK ACCESS SYSTEM INCLUDING A PROGRAMMABLE ACCESS DEVICE HAVING DISTRIBUTED SERVICE CONTROL appearing in the Official Gazette of August 9, 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 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 16, 2006

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6,355,483

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

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

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

Thank You For Your Assistance

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

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

Comments:

The proposed change to the title of the invention is not approved. The title as issued is "Antisense Inhibition of SRC-2 Expression". This accurately reflects the invention as claimed, which is drawn to antisense oligonucleotides and a method of inhibiting SRC-2 expression. Substitution of "modulation" for inhibition, as proposed, is not warranted because there is no evidence of record that the claimed method modulates SRC-2 expression in any way other than inhibition. See MPEP 606.01 and 1302.01.

Pete Paras — **SPE**
1635 — **Art Unit**

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OFFICE OF PETITIONS

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
Bernd Michaelis et al	:	
Application No. 09/723,540	:	ON PETITION
Filed: November 27, 2000	:	
Attorney Docket No. 000432	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2006, and supplemented on May 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-final Rejection of November 4, 2003, is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

This matter is being referred to the Technology Center AU 2625.

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 21 2006
OFFICE OF PETITIONS

In re Patent No. 6,961,641 :
Issued: November 1, 2005 : DECISION UNDER 37 CFR
Application No. 09/723,564 : 1.705(d)
Filed: November 28, 2000 :
Atty. Dkt. No. 6270/48 :

This is a decision on the "REQUEST FOR RECONSIDERTAION OF THE PATENT TERM ADJUSTMENT," filed November 3, 2005. This matter is being treated under 37 CFR 1.705(d) as a timely filed application for patent term adjustment (PTA).

The application for PTA under 37 CFR 1.705(d) is hereby **DISMISSED**.

The above-identified application matured into U.S. Patent No. 6,961,641 on November 1, 2005. The patent issued with a PTA of 794 days. Patentees argue that the patent is entitled to an additional adjustment for the Office's failure to issue the patent within three years of the application's date of filing.

Specifically, patentees argue that the patent is entitled to an additional adjustment of 376 days, or, in the alternative, 148 days in accordance with 37 C.F.R. § 1.704(b) for the Office's failure to issue the patent within three years from the date upon which the application was filed.

At the time of issuance, the application was entitled to an adjustment of 794 days as indicated on the patent.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(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 application that 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 Red. Reg. 21704 (April 22, 2004).

Accordingly, the patent is entitled to an adjustment of 794 days as indicated thereon.

Receipt is hereby acknowledged of the required application fee of $200.00.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date indicated above. Extensions of time for reconsideration under 37 CFR 1.136 will not be permitted.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/723722 Patent No.: 7115416

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 Check Claims

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Applicant's amendments correct USPTO's errors and do not change the scope of the allowed invention

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1656
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

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. 7,060,269

WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION

This is in response to the "Election Under 37 C.F.R. § 1.785(b)" filed April 24, 2009, of the application for patent term extension for U.S. Patent No. 6,407,213, (LUCENTIS® (ranibizumab)). The present application for patent term extension for U.S. Patent No. 7,060,269 is withdrawn in favor of the elected patent, U.S. Patent No. 6,407,213.

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: LUCENTIS® (ranibizumab)
FDA Docket No.: FDA-2007-E-0459

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

Richard A. Jordan
P.O. Box 81363
Wellesley Hills, MA 02481-0004

COPY MAILED

SEP 0 3 2002

OFFICE OF PETITIONS

In re Application of
Gideon P. Stein
Application No. 09/723,755
Filed: November 26, 2000
Title of Invention: SYSTEM AND METHOD FOR DETECTING OBSTACLES TO VEHICLE MOTION AND DETERMINING TIME TO CONTACT THEREWITH USING SEQUENCES OF IMAGES

DECISIONS ON PETITIONS
UNDER 37 CFR 1.48 AND 1.137(B)

This is in response to the "Petition to Change Inventorship" which is being treated under 37 CFR §1.48 and the petition to revive filed under 37 CFR 1.137(b). Both petitions were filed on June 10, 2002.

The petition filed under 37 CFR 1.48 is **Dismissed**.
The petition filed under 37 CFR 1.137(b) is **Dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48 and 1.137(b)."

The above-identified application was filed on November 26, 2000, without an executed oath or declaration. Accordingly, on March 30, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $65.00 surcharge for its late filing.

In response, on June 10, 2002, applicant filed a $65.00 surcharge, a petition to change inventorship, a petition to revive, the declaration of Annon Shashua in support of the change of inventorship and a declaration executed by inventor Gideon Stein. The petition under 37 CFR 1.48 will be addressed first.

Petition Under 37 CFR 1.48

A grantable 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(l); and (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee. Petitioner has failed to meet requirement (2).

Although Annon Shashua provided a statement indicating he is not an inventor for the above-identified application, Mr. Shashua did not indicate the error in inventorship occurred without deceptive intention on his part. As such the declaration of Mr. Shashua does not meet the requirements.

Petition 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(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). Petitioner has failed to meet requirement (1).

Petitioner has failed to provide the required reply which is a grantable petition under 37 CFR 1.47, 1.48 or a fully executed declaration.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

William H Dippert Esq
Reed Smith LLP
599 Lexington Avenue 29th Floor
New York NY 10022-7650

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Gideon P. Stein :
Application No. 09/723,755 : DECISIONS ON PETITIONS
Filed: November 26, 2000 : UNDER 37 CFR 1.48 AND 1.137(B)
Title of Invention: SYSTEM AND METHOD :
FOR DETECTING OBSTACLES TO VEHICLE :
MOTION AND DETERMINING TIME TO :
CONTACT THEREWITH USING :
SEQUENCES OF IMAGES :

This is in response to petitions filed under 37 CFR §§1.48 and 1.137(b). Both petitions were filed on August 30, 2004.

The petition filed under 37 CFR 1.48 is **Granted**.
The petition filed under 37 CFR 1.137(b) is **Granted**.

The above-identified application was filed on November 26, 2000, without an executed oath or declaration. Accordingly, on March 30, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $65.00 surcharge for its late filing. Petitions filed under 37 CFR 1.48 and 1.137(b) were dismissed on April 28, 2003

Petition Under 37 CFR 1.48

A grantable 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.

Petitioner has satisfied the requirements of 37 CFR 1.48.

Petition 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(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)

Petitioner has met the requirements of 37 CFR 1.137(b).

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of :
Dale B. Schenk :
Application No. 09/723,765 : DECISION ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 15270J-004771US :

This is a decision on the petition under 37 CFR 1.181, filed December 18, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on December 10, 2007, stating that this application is abandoned for failure to take appropriate action in a timely manner after the March 16, 2007, decision of the Board of Patent Appeals and Interferences. Petitioner filed a request for rehearing on May 9, 2007. The request was denied on October 16, 2007.

Petitioner contends that the holding of abandonment of this application was improper. In this regard, 1.304(a) states that:

> (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ **1.302**) or for commencing a civil action (§ **1.303**) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § **41.52**(a), § **41.79**(a), or § **41.127**(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Therefore, petitioner had up to and including December 17, 2007[1], within which to take appropriate action. The petition is

[1] It is noted that December 16, 2007, was a Sunday, therefore; the applicable time period was extended to December 17, 2007.

accompanied by a request for continued examination (RCE), and (submission), and a $810 fee for the RCE.

The rule at 37 CFR 1.304(a)(1) states:

> The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § **41.52**(a), § **41.79**(a), or § **41.127**(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Further, the rule at 37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 * *

Additionally, attention is directed to MPEP 1214.07 Reopening of Prosecution, which states:

> Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered. See MPEP § 706.07(h), paragraph I.

In view of the above, petitioner is correct that the time period for taking action after the mailing of the Board decision to deny

the rehearing request is two (2) months from the October 16, 2007, mailing date thereof. Accordingly, the mailing of the Notice of Abandonment on December 10, 2007, was premature as the period for reply to the Board decision had not yet expired. Additionally, the appropriate reply to continue prosecution in the form of an RCE, $810 fee therefor, and the submission required by 37 CFR 1.114 were submitted within the two (2) month period for replying to the October 16, 2007, Board decision.

In view of the above, the holding of abandonment is improper. Accordingly, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being referred to Technology Center AU 1649 for processing of the RCE and for taking appropriate action in the normal course of business on the submission under 37 CFR 1.114, filed December 18, 2007.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,703,724

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

THE MATTHEWS FIRM
1900 WEST LOOP SOUTH
SUITE 1800
HOUSTON, TX 77027

COPY MAILED

JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Mosing et al. :
Application No. 09/723,865 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. FRANK's CASING-075 :

This decision concerns the April 13, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

On January 18, 2002, a non-final Office action was mailed, setting forth a 3-month shortened statutory period for reply ("1/18/02 non-final Office Action"). The Office action also noted the Examiner's objections to the drawings.

No response was filed on or before July 18, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on April 19, 2002.

The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) **a full and proper reply to the 1/18/02 non-final Office Action**, unless previously filed; (2) the $1,330 petition fee; and (3) a statement that the entire delay in filing the required reply from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition authorizes the USPTO to charge the petition fee to Deposit Account No. 13-2166, and encloses an amendment and a set of substitute drawings. These substitute drawings are objected to by the draftsperson (see attached report). The petition is thus dismissed.

A renewed §1.137(b) petition must:

-include properly corrected drawings;[1]

-be filed within **TWO MONTHS** of the mailing date of this decision;[2]

and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: 6/17/04 Notice of Draftsperson's Patent Drawing Review

---

[1] **Any information/papers already filed with the instant petition (e.g., the amendment) should not be re-submitted.**

[2] Extensions of time under 37 CFR 1.136(a) are available. 37 CFR 1.137(e)(1).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 12

THE MATTHEWS FIRM
1900 WEST LOOP SOUTH
SUITE 1800
HOUSTON, TX 77027

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JUL 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Mosing et al. :
Application No. 09/723,865 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. FRANK's CASING-075 :

This decision concerns the July 12, 2004 "Response to Office Action" which is a renewed petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on April 19, 2002 for failure to timely submit a proper reply to the January 18, 2002 non-final Office Action which also requested drawings corrections.

The April 13, 2004 petition under 37 CFR 1.137(b) was dismissed, in that, the substitute drawings submitted with that petition were objected to by the draftsperson.

The substitute drawings filed with the instant renewed petition have been approved by the draftsperson. The petition is thus granted.

No further petition fee is owed.

The application file is being returned to Technology Center 3600 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

Norman R. Klivans
SKJERVEN MORRILL MacPHERSON LLP
Suite 700
25 Metro Drive
San Jose CA 95110-1349

MAR - 3 2003

In re Application of:	:	
Kim, *et al.*	:	
Application No. 09/723,953	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 27, 2000	:	
For: CHIP SCALE PACKAGES AND METHODS FOR MANUFACTURING THE CHIP SCALE PACKAGES AT WAFER LEVEL	:	

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 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).

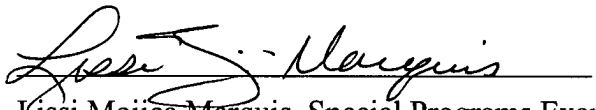
The request meets all the above requirements. The request was signed by Norman R. Klivans, an attorney of record in the above identified application. On November 18, 2002, the Office mailed a final Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through May 19, 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 John Castellano, 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: 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of :
Abhijit B. Rao :
Application No. 09/723,976 :
Filed: November 28, 2000 : DECISION ON PETITION
Attorney Docket No. 36.P292 : UNDER 37 C.F.R. §1.181(A)
Title: DIGITAL IMAGE RETRIEVAL :
AND STORAGE :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on August 21, 2006.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 13, 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 October 14, 2005. A notice of abandonment was mailed on August 10, 2006.

With the present petition, Petitioner has included a response to the non-final Office action, which contains a certificate of mailing dated October 13, 2005.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. §1.8.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision.

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

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)
6446337	2002-09-10	09724034	2000-11-28	202845.00007

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	/Amanda H. Wilcox/	Date (YYYY-MM-DD)	2007-07-27
Name	Amanda H. Wilcox	Registration Number	53772

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. 6446337
Issue Date: September 10,2002
Application No. 09724034
Filed: November 28,2000
Attorney Docket No. SNZ/11583

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

This is a decision on the electronic petition, filed July 27,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 27,2007 . 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 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.
09/724,124	12/19/00	JOHN R. ROSENFELD, ET AL	13DV13464

Title: **METHODS AND SYSTEMS FOR AVIATION PARTS, INFORMATION AND SERVICES**

Art Unit	Paper Number

Correspondence Address:
WILLIAM S. ANDES
GENERAL ELECTRIC COMPANY
ONE NEUMAN WAY, M/D H17
CINCINNATI, OH 45215-6301

0400
2
1/28/01

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

RECEIVED
SEP 24 2001
Technology Center 2100

License Number: 526,169

~~Grant Date~~: 20-Dec-00

Approved:

~~for Commissioner of Patents~~ and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

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

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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MAR 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Ishida et al.	:	
Application No. 09/724,200	:	LETTER REGARDING
Filed: November 27, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
41211/DBP/K277	:	

This letter is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed December 28, 2004, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment. Applicants request that the patent term adjustment indicated in the notice of allowance be reduced from one hundred forty-seven (147) days to one hundred sixteen (116) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **ONE HUNDRED SIXTEEN (116)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 1, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-

identified application. The Notice stated that the patent term adjustment to date is 147 days. Applicants state that an additional applicant delay of 31 days had not been included in the patent term adjustment calculation. Specifically, applicants assert that an amendment and request for continued examination (RCE) in response to the final Office action mailed March 22, 2004 was received by the Office on July 23, 2004, which should have resulted in an additional 31 day reduction to the patent term adjustment based on 37 CFR § 1.704.

A review of the application history confirms that applicants' characterization of the basis for and amount of the additional reduction is correct. Pursuant to § 1.704(b), a period of reduction of 31 days should have been entered for applicant delay beginning on June 23, 2004, and ending on July 23, 2004.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is ONE HUNDRED SIXTEEN (116) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

Kery A. Fries
for

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

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

Pennie and Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

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DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Robert S. Langer, et al. :
Application No. 09/724,382 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 6261-227 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Valarie Rosen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Ms. Rosen desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the person signing the statement of unintentional delay, namely Ms. Rosen, was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in submitting a reply to the outstanding office action under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

The application file is being forwarded to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

cc: Valarie B. Rosen
Choate, Hall & Stewart, Exchange Place
53 State Street
Boston, MA 02109

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

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APR 19 2006
OFFICE OF PETITIONS

In re Application of :
Joyyosi, et al. : DECISION ON APPLICATION
Application No. 09/724,496 : FOR PATENT TERM ADJUSTMENT
Filed: November 28, 2000 :
Attorney Docket No. 02481.1691 :

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT", filed February 24, 2006. 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 patent term adjustment (PTA) is **DISMISSED**.

On February 28, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is three hundred six (306) days. Applicants filed the instant "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" on February 24, 2006.

On February 28, 2006, the application issued into Patent No. 7,005,440, with a patent term adjustment of three hundred six (306) days.

A review of the record reveals that the determination of patent term adjustment was correct. The Office determined a patent term adjustment of three hundred six (306) days based on an adjustment for PTO delay of two hundred thirty-five (235) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), ninety-nine (99) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), and fifty-seven (57) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. §1.703(a)(6), reduced by thirty-two (32) days and ninety-nine (99) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **three hundred six (306) days** (391 days of PTO delay (235+99+57), reduced by 85 (32+53) days of Applicant delay).

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

Kery A. Fries

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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AUG 0 3 2005

OFFICE OF PETITIONS

Terrance A. Meador
INCAPLAW
1050 Rosecrans Street, Suite K
San Diego CA 92106

In re Application of
J. M. LIPSIT
Application No.: 09/724,577
Attorney Docket No.:470.US

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 23 2004 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to non-final Office action mailed October 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on 04 January 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (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 October 3, 2003 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 2682.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
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

JUN 14 2005

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

In re Application of	:
Kenneth W. Woods et al	:
Serial No.: 09/724,584	: PETITION DECISION
Filed: November 28, 2000	:
Attorney Docket No.: UCSD-04870	:

This is in response to the petition under 37 CFR 1.181, filed November 13, 2004, for withdrawal of abandonment of the above identified application based on a timely reply.

A review of the file history shows that the Office mailed a Notice Regarding Drawings, requiring corrected formal drawings, to applicants on May 19, 2004, setting a two month time period for reply. A Notice of Abandonment was mailed to applicants on September 14, 2004, when no reply had been received. Applicants state that new formal drawings were mailed to the Office on July 12, 2004, along with a petition to accept black and white photographs. The drawings have now been located and are found acceptable. A petition is no longer required for submission of black and white photographs. In view of the evidence presented the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition to withdraw the Notice of Abandonment is **GRANTED**. The petition to accept black and white photographs as drawings is DISMISSED as moot.

The application will be forwarded to Publications Division for printing as a patent.

The petition fee paid of $130.00, will be credited to applicants' Deposit Account No. 08-1290, as directed.

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.

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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Paper No. 14

THE CLOROX COMPANY
1221 BROADWAY
P.O. BOX 2351
OAKLAND, CA 94623

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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Malcolm A. Deleo, et al :
Application No. 09/724,651 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 360.76A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 5, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 6, 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.

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

The application is being forwarded to Technology Center AU 1751 for further processing.

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

cc:

Joel J. Hayashida
The Clorox Company
P.O. Box 24305
Oakland, CA 94623-1305

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND CA 94623-1305

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of :
DeLeo, et al. :
Application No. 09/724,651 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 360.76A :
For: HARD SURFACE CLEANER WITH IMPROVED STAIN REPELLENCY COMPRISING A FLUOROPOLYMER AND A QUATERNARY AMMONIUM SURFACTANT

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to timely reply to the Notice Regarding Drawings, mailed August 16, 2005, which set a non-extendable one month period for reply. No reply being filed, the application became abandoned on September 17, 2005. No Notice of Abandonment has been mailed.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

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

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may

require additional information where there is a question whether the delay was unintentional; and

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

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

The drawings filed on November 18, 2005 have not been approved by the Draftsperson. Please see the enclosed Notice of Draftsperson's Patent Drawing Review. Three sets of color photographs and a granted petition are required before the color drawings can be accepted.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review for drawings filed on November 18, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND CA 94623-1305

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OFFICE OF PETITIONS

In re Application of :
DeLeo, et al. :
Application No. 09/724,651 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 360.76A :
For: HARD SURFACE CLEANER WITH IMPROVED STAIN REPELLENCY COMPRISING A FLUOROPOLYMER AND A QUATERNARY AMMONIUM SURFACTANT

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed September 26, 2006, to revive the above-identified application.

This application became abandoned for failure to timely reply to the Notice Regarding Drawings, mailed August 16, 2005, which set a non-extendable one month period for reply. No reply being filed, the application became abandoned on September 17, 2005. No Notice of Abandonment has been mailed.

Applicants have submitted a reply in the form of an amendment to the specification to eliminate all references to the word "color" in conjunction with the word "photograph(s)", an acceptable statement of the unintentional nature of the delay in responding to the August 16, 2005 Notice, and the petition fee.

The petition is **granted**.

This application is being returned to Technology Center A.U. 1751 for consideration of the amendment filed on September 26, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

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, DC 20231
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Paper No. 9

MAIL

FEB - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of :
Crosby et al. :
Application No. 09/724,658 :
Filed: November 28, 2000 :
For: **ON DEMAND TECHNIQUES FOR USING DATA ASSOCIATED WITH A DIGITAL IMAGE SUITABLE FOR RASTERIZATION AT ANY RESOLUTION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on October 27, 2002.

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

The Attorney(s)/Agent(s) listed in the request are withdrawn.

Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to customer number 01333 at 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:
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650
Attn: Frank Pincelli, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

Heller Ehrman White & McAuliffe
Suite 1100
525 University Avenue
Palo Alto, CA 94301-1900

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Randy J. Kesten et al. :
Application No. 09/724,691 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 26842-1060(FLO5360.03A) :

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

The petition is GRANTED.

This application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed April 8, 2002, which set a statutory period for reply of (1) one month. Accordingly, the application became abandoned on May 9, 2002.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of John P. O'Banion 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 John P. O'banion 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.

This application is being forwarded to Technology Center AU 3763 for further processing.

Telephone inquiries regarding this decision 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

Cc: John P. O'Banion
O'Banion & Ritchey
400 Capitol Mall, Suite 1550
Sacramento, CA 95814

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JOHN T. PIENKOS
5017 N. HOLLYWOOD AVE.
WHITEFISH BAY WI 53217

In re Application of	:	
John Thaddeus Pienkos	:	
Application No. 09/724,744	:	ON PETITION
Filed: November 28, 2000	:	
Attorney Docket No. None	:	

This is a decision on the petition, filed February 20, 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 January 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3625 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).

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. 7

MAIL

DEC 0 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of :
David C. WILKINS, et al. :
Application No. 09/724,756 :
Filed: November 28, 2000 :
For: TECHNIQUES FOR RECURSIVELY LINKING A MULTIPLY MODIFIED MULTIMEDIA ASSET TO AN ORIGINAL DIGITAL NEGATIVE :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 27, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Note: There are currently NO Attorneys/Agents of record for this application. If applicant desires appointment of representation, a properly executed Power of Attorney must be filed.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MAILED

NOV 12 2003

Technology Center 2100

BEYER WEAVER & THOMAS, LLP
P.O. Box 778
Berkeley, CA 94704-0778

In re Application of
David C. WILKINS, et al
Application No. 09/724,775
Filed: November 28, 2000
For: TECHNIQUES FOR SYNCHRONIZING ANY OF A PLURALITY OF ASSOCIATED MULTIMEDIA ASSETS IN A DISTRIBUTED SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 28, 2003.

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

The request is **GRANTED**.

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

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

cc: Patent Legal Staff
EASTMAN KODAK COMPANY
343 State Street
Rochester, NY 14650-2201

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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

OCT 18 2007

OFFICE OF PETITIONS

In re Application of
Joo et al.
Application No. 09/724812
Filing or 371(c) Date: 11/28/2000
Attorney Docket Number:
062891.0606

ON PETITION

This decision is in response to the "Petition to Correct Inventor's name Under 37 CF.R. § 1.183," filed July 19, 2007. The petition is properly treated under 37 CFR 1.182. The delay in treating this petition is regretted.

Petitioner files the present petition and states that the fourth inventor, listed on the face of the patent as Choi Young, II; however, the correct name for the inventor should be Young Il Choi. Petitioner requests that if the petition is granted, that the file be forwarded to the Certificate of Corrections Branch for issuance of the enclosed Certificate of Correction. Petitioner also files a "Request for Certificate of Correction Under 37 CFR § 1.322."

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Inventor name change

MPEP 201.03, Correction of Inventorship in an Application, provides

(B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See MPEP § 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

The petition to correct the fourth inventor's name is granted[1]. Office records have been corrected to reflect the name of the fourth inventor as Young Il Choi.

[1] The name change is apparently due to a trnasliteration error, and the petition is granted under that assumption. If this assumption is incorrect, Petitioner must notify this Office immediately.

Changes to the Claims

Petitioner has also filed a Request for Certificate of Correction Under 37 CFR § 1.322. It is noted that the certificate of correction makes changes to the claims apparently inconsistent with the Notice of Allowability mailed September 15, 2005.

The MPEP provides:

> Requests for Certificates of Correction will be forwarded to the Certificate of Correction Branch of the Office of Patent Publication, where they will be listed in a permanent record book.
> If the patent is involved in an interference, a Certificate of Correction under 37 CFR 1.324 will not be issued unless a corresponding motion under 37 CFR 41.121(a)(2) or 41.121(a)(3) has been granted by the administrative patent judge. Otherwise, determination as to whether an error has been made, the responsibility for the error, if any, and whether the error is of such a nature as to justify the issuance of a Certificate of Correction will be made by the Certificate of Correction Branch. If a report is necessary in making such determination, the case will be forwarded to the appropriate group with a request that the report be furnished. If no certificate is to issue, the party making the request is so notified and the request, report, if any, and copy of the communication to the person making the request are placed in the file wrapper (for a paper file) or entered into the file history (for an IFW file), and entered into the "Contents" for the file by the Certificate of Correction Branch. The case is then returned to the patented files. If a certificate is to issue, it will be prepared and forwarded to the person making the request by the Office of Patent Publication. (Emphasis supplied).

The application file is being referred to the Certificate of Corrections Branch for a decision on the Request for Certificate of Correction.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 6, 2008

TO SPE OF: ART UNIT 2619

SUBJECT: Request for Certificate of Correction for Appl. No.: 09/724,812 Patent No.: 7,006,479

Please respond to this request for 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**.

Changes to claims approved? No

Thank You For Your Assistance

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

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 requested changes to the claims reverse the changes made in the Examiner's Amendment at the time of allowance of the application and would change the scope of the claim. /M.J.M./

_____ **SPE**

2619 **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

UR
PAPER NO. 7

FEB 11 2002

In re Application of :
Alexandre N. Terentiev
Serial No. 09/724,815 :
Filed: November 28, 2000 :
For: PUMPING OR MIXING SYSTEM :
USING A LEVITATING MAGNETIC :
BEARING RELATED SYSTEM COMPONENTS,:
AND RELATED METHODS :

DECISION ON
PETITION UNDER
M.P.E.P. 708.02(IX)

This is in response to the petition filed January 8, 2001, requesting that the above-identified application be granted Special Status under Sections 37 CFR 102(c) and 708.02 (IX) 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

Andrew D. Dorisio
KING AND SCHICKLI, PLLC
247 North Broadway
Lexington, Kentucky 40507

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Matthew D. Linnik et al :
Application No. 09/724,822 : DECISION GRANTING PETITION
Filed: November 28, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 252312007400 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 1636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

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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

JAMES C. SCHELLER, JR.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Schubert et al.	:	
Application No. 09/724,839	:	ON PETITION
Filed: November 28, 2000	:	
Attorney Docket No. 02986.P034	:	

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.

This matter is being referred to Technology Center 2100 for consideration of the Amendment under 1.312.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,192,935 B2
Serial No. : 09/724,841
Inventor(s) : Grabstein et al.
Issued : March 20, 2007
Title : **POLYNUCLEOTIDES ENCODING EPITHELIUM-DERIVED T-CELL FACTOR AND USES THEREOF**
Docket No. : **66033-10/2811-H**
Re: Request for Reconsideration

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

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

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

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

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE,

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

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

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SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 6,855,866 :
Issue Date: February 15, 2005 :
Application No. 09/724,857 : NOTICE
Filed: November 28, 2000 :
Attorney Docket No. :
023070-114700US

This is a notice regarding your request, filed January 5, 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).

Inquiries related to this communication 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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NOV 15 2005

OFFICE OF PETITIONS

GENENTECH, INC.
1 Dna Way
South San Francisco, CA 94080

In re Application of
Lam et al.
Application No. 09/724,868
Filed: November 28, 2000

: DECISION GRANTING PTA
:APPLICATION

This decision is in response to Applicants' APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) timely[1] filed on March 7, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of three hundred and seventy-seven (370) days to a determination of four hundred and seventy-seven (477) days.

The applicants' application for PTA is **GRANTED.** The Office will adjust the PAIR calculation at the time of the mailing of the notice of allowance to reflect that 477 days of adjustment has been determined.

Applicants assert that the Office erred in assessing the reduction as a supplemental response under 37 CFR 1.704(c)(8) because the submission of the IDS documents was a duplicate copy filed at the examiner's request for such IDS. Applicants assert that the specific IDS had in fact been submitted prior on February 2001 and the re-submission on May 28, 2005 was in fact a duplicate of what was previously submitted and provided as a courtesy at the examiner's request.

Applicants arguments are persuasive. Although the examiner failed to include an interview summary of the conversation as should have been done to have a complete file history. The record reflects that applicants"arguments are accurate. Specifically, the file history reflects that the same submission had in fact been submitted by applicants on February 15, 2001. Applicant submitted a postcard stamped receipt of such submission. In addition, applicants submission of May 28, 2004 reflects that the examiner had expressly requested the information and noted such per the following submission; "per voice mail request this morning, attached is a copy of the IDS, form 1449, and PTO stamped postcard receipt". Accordingly, pursuant to rule 37 CFR 1.704(c)(8), applicants will not be assessed a failure to engage in reasonable efforts to conclude processing and examining of the application if the supplemental response is expressly requested by the examiner. The record viewed as a whole reflects that the submission of the IDS on May 28, 2004 was in fact expressly requested by the examiner.

After the mailing of this decision, the application file will be forwarded to the Office of Patent Publication for a prompt issuance of the patent. Additional delays in issuing the patent beyond

---

[1]Issue fee paid concurrently with the petition.

four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issue date.

The Office has charged deposit account No. 07-0630 the $200.00 fee. No additional fees are required by the Office.

Any questions concerning this decision should be directed to Kery 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: Adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DIW Dec-05

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of :
John Edward Tomaschke :
Application No. 09/724,883 : DECISION ON PETITION
Filed: 28 November, 2000 :
Atty Docket No. 7703-PA02 :
:

This is a decision on the petition filed on 10 November, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 October, 2005, for failure to timely file the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 14 July, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

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

Paper No. 10

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of
Kemble, et al.
Application No.: 09/724,935
Filed: November 28, 2000
Attorney Docket No: AVIR-0032-1

: ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 3, 2004.

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

On May 9, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed by the Office requiring payment of the filing fee and a surcharge for the late payment thereof, an oath or declaration, and a sequence listing. The notice allowed an extendable period for response of two months from its mailing date. No response was received within the allowed period and the application became abandoned on July 10, 2001. A Notice of Abandonment was mailed on June 9, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The filing fee and surcharge were received on May 3, 2004.

The executed declaration and sequence listing were received on May 3, 2004. A preliminary amendment was also received on May 3, 2004.

The "Power of Attorney or Authorization of Agent, not Accompanying Application" was received on May 3, 2004, and is made of record.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:
"Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

#5

UNITED STATES 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. 5

MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20004

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JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Thomas Gingeras et al :
Application No. 09/724,938 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. 056297-5015-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 26, 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 May 27, 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 for preexamination processing.

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

Sector 8

PTO/SB/21 (08-00)

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

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE JC130 JUL 13 2001 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/724,959
Filing Date	November 28, 2000
First Named Inventor	Dempcy, Robert O.
Group Art Unit	1614
Examiner Name	Unassigned
Total Number of Pages in This Submission: 18	Attorney Docket Number: 17682A-003610

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [x] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] Petition to Convert to a Provisional Application
- [x] Power of Attorney or Authorization of Agent
- [ ] 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
Copy of Notice to be returned
Statement under 37 CFR 3.73(b)

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 William B. Kezer Reg No. 37,369
Signature	William B. Kezer
Date	7.10.01

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: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 7/10/01

Typed or printed name	Jennifer K. Hardin		
Signature	Jennifer K. Hardin	Date	7/10/01

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.

v

#3

OIPE JC130 JUL 13 2001 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
09/724,959	11/28/2000	Robert O. Dempcy	17682A-003610US

CONFIRMATION NO. 7793

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

FORMALITIES LETTER

OC000000006108627

Date Mailed: 05/23/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

07/17/2001 HABDI1 00000073 201430 09724959

01 FC:201 355.00 CH
02 FC:202 440.00 CH
03 FC:203 801.00 CH
04 FC:205 65.00 CH

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 $ **355** *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 $1241.
  - **$801** for **89** total claims over 20.
  - **$440** for **11** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1661.**

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821 (f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such

request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

PTO/SB/17 (09-00)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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OIPE JC1930 JUL 13 2001 PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 1346

Complete if Known	
Application Number	09/724,959
Filing Date	November 28, 2000
First Named Inventor	Dempcy, Robert O.
Examiner Name	Unassigned
Group Art Unit	1614
Attorney Docket No.	17682A-003610US

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	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 filing fee	

SUBTOTAL (1) ($)355

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below	=	Fee Paid
Total Claims	109	-20** =	89	X	$9	=	$801
Independent Claims	14	-3** =	11	X	$40	=	$440
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) ($)1241

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

The Commissioner is authorized to charge any additional fees to the above noted Deposit Account.

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($)105

SUBMITTED BY

Complete *(if applicable)*

Name (Print/Type)	William B. Kezer	*Registration No. (Attorney/Agent)*	37,369	*Telephone*	925-472-5000
Signature	William B Kezer			*Date*	7.10.01

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080404

DATE : April 04, 2008

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 7041871

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:

Proposed corrections to specific nucleotide sequences identified by SEQ ID NOS in the specification are denied ,as a new sequence listing reflecting these proposed changes has not been filed. Entry of these corrections would have created a conflict between the specification and the sequence lisiting. Further, as both the sequences presented in the original specification and the several filed versions of the sequence listing match, it is not clear that the proposed changes to these sequences are in fact typographical errors. Other specific reasons include non-entry of the proposed change to column 4 on page 4 of the proposed certificate of correction as the column number appears to be incorrect, and the non-entry of the proposed insertion of a paragraph in column 131-132 which includes nucleotide and amino acid sequences, as these sequences are not identified by SEQ ID NOS. The attached annotated proposed certificate of correction identifies each proposed correction not entered.

SPE: /Joseph Woitach/ Art Unit 1633

Docket No.: 04280/1201643-US5
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Nils Lonberg et al.

Patent No.: 7,041,871

Issued: May 9, 2006

For: TRANSGENIC NON-HUMAN ANIMALS FOR PRODUCING HETEROLOGOUS ANTIBODIES

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323 AND PATENT OFFICE MISTAKE (37 CFR 1.322)

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

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted several errors which should be corrected. The errors now sought to be corrected are inadvertent typographical error, the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendments. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Enclosed is payment in the amount of $100 in accordance with 37 CFR 1.20(a). The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Dated: October 4, 2006

Respectfully submitted,

By _____

Flynn Barrison
Registration No.: 53,970
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

ENTER IN PART: /AW/ (04/04/2008)

PATENT NO.	:	7,041,871
APPLICATION NO.	:	09/724,965
ISSUE DATE	:	May 9, 2006
INVENTOR(S)	:	Nils Lonberg et al.

specific proposed corrections not entered have been lined through and initialed by the examiner

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

In the Application:

Page 2, Col. 2 (Other Publications), Line 13, Delete "responce" and insert

-- response --.

Page 3, Col. 1 (Other Publications), Line 33, Delete "Cynomologus" and insert

-- Cynomolgus--.

Page 3, Col. 1 (Other Publications), Line 39, After "μ" delete "ig" and insert

- - Ig - -.

Page 3, Col. 2 (Other Publications), Line 33, Delete "prior" and insert -- prior--.

Page 3, Col. 2 (Other Publications), Line 47, Delete "resonses" and insert --responses--.

MAILING ADDRESS OF SENDER:
Flynn Barrison
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

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

Page 4, Col. 2 (Other Publications), Line 40, Delete "811-820." and insert

-- 811-820 (1993). --.

Column 6, Line 63, Delete "heavy" and insert -- light --.
Column 10, Line 3, Delete "$V_\kappa J$" and insert - - VDJ - -.

Column 11, Line 13, Delete "$\gamma 1^{-+}/\mu^-$." and insert - - $\gamma 1^-/\mu^+$. - -.

Column 11, Line 45, "Bath" and insert - - Both - -.

Column 11, Line 51, After "top" delete ";" and insert - - (SEQ ID NO: 333); - -.
Column 12, Line 44, "VH51 μ1" and insert - - VH51p1 - -.

Column 12, Line 51, Delete "JC+/-;" and insert - - JCκ+/-; - -.

Column 13, Line 13, Delete "K-light" and insert -- κ-light --.

Column 13, Line 20, "(O)" and insert - - (Δ) - -.
Column 13, Line 29, "1.5/ml" and insert - - 1.5μ/ml - -.

Column 14, line 12, "19M+gates" and insert - - IgM^+gates - -.

Column 14, line 13, "IgG" and insert - - IgGκ - -.

Column 14, line 41 (Approx.) After "parantheses." insert - - Fig. 97 shows human IgM and IgG anti-IL8 serum titers in transgenic mice. Responses of the individual mice to the immunogen were assessed by ELISA, converted to titers (1 = OD > 0.1 at 1:50 dilution of serum; 2 = OD > 0.1 at 1:250 dilution of serum; 3 = OD > 0.1 at 1:1250 dilution of serum; 4 = OD > 0.1 at 1:6250 dilution of serum; and 5 = OD > 0.1 at 1:31250 dilution of serum) and then averaged.
Fig. 98 shows the effect of human anti-IL8 mAb on IL8-induced neutrophil chemotaxis and elastase release. - - as new paragraphs.

Column 14, Line 56, After "of" delete "the".

Column 14, Line 67, Delete "transgeic" and insert -- transgenic --.

Column 14, Line 67, Delete "seqment" and insert -- segment --.

Column 15, Line 1, Delete "occurance" and insert -- occurence --.

Column 16, Line 55, Delete "adsoption" and insert -- adsorption --.

Column 17, Line 7, Delete "perferrably" and insert -- preferably --.

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DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

Column 25, Line 31 (Approx.) After "reference" delete "." And insert --).---.

Column 25, Line 38 (Approx.) Delete "hypermutatian," and insert -- hypermutation --.

Column 47, Line 57, "JK" and insert - - Jκ - -.

Column 47, Line 57, "CK" and insert - - Cκ - -.

Column 49, Line 4, "107 M^{-1}," and insert - - 10^7 M^{-1}, - -.

Column 49, Line 5, Delete "108 M^{-1}" and insert - - 10^8 M^{-1} - - .

Column 56, Line 28, Delete "aty" and insert --at--.

Column 57, Line 36, Delete "C_HO" and insert - - CHO - -.

Column 58, Line 42, Delete "Homeff," and insert - - Horneff, - -.

Column 59, Line 13, Delete "determing" and insert -- determining --.

Column 60, Line 39, Delete "1348^{-1351}" and insert - - 1348-1351 - -.

~~**Column 61, Line 38 (Approx.) Delete "CCA" and insert -- GCA --.**~~ /AW/

Column 67, Line 58, (Approx.) Delete "γ" and insert - - λ - -.

Column 68, Line 5, Delete "γ" and insert - - λ - -.

Column 73, Line 16, Delete "Of" and insert - - of - -.

Column 75, Line 34, Delete "Jk" and insert - - Jκ - -.

Column 75, Line 34, Delete "C" and insert -- Cκ, --.

Column 78, Line 17, Delete "poll," and insert - - polI.

Column 78, Line 18, Delete "J_H" and insert - - J_H, - -.

Column 79, Line 65 (Approx.) Delete "aat" insert -- att --.

~~**Column 85, Line 36, Delete**~~

~~**"TTTAAAAGTGCTCATCATTGGAAAACGTTCTTCGGGGCGAAAACTCTCAAGCATCTTAC" and insert - -**~~

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New York, New York 10150-5257

/AW/ ~~TTTAAAAGTGCTCATCATTGGAAAACGTTCTTCGGGGCGGAAAACTCTCAAG GATCTTAC" - -.~~

Column 87, Line 48, Delete "associated" and insert - - δ-associated - -.

Column 88, Line 20, Delete "DM_2" and insert - - D_{M2} - -.

Column 88, Line 20, Delete "(Zchihara" and insert -- (Ichihara --.

Column 88, Line 23, Delete "D_{xp}" and insert - - $D_{xp'1}$, - - .

Column 89, Line 59, (Approx.) Delete "A29.5" and insert - - λ 29.5 - -.

Column 90, Line 44, Delete "pHC_2-" and insert - - pHC2 - -.

Column 91, Line 41, Delete "Kienow" and insert - - Klenow - -.

Column 94, LIne 61 (Approx.) Delete "0-150" and insert --o-150--.

/AW/ ~~Column 4, Row 11 (Table 4), Line 2, Delete "ATGCTCACCTCTCTTCAC" and insert ATGCTCACCTCTCTTCAG~~ - -.

Column 103, Line 29 (Approx.), Delete "$J_\kappa 1$" and insert - - Jκl - -.

Column 111, Line 6-7, Delete "C. An IgKappa antisense transgene construct." and insert the same as sub-heading.

Column 111, Line 12 (Approx.) Delete "gtc" and insert -- gta --.

Column 111, Line 20, Delete "pBCEI" and insert --pBCE1--.

Column 111, Line 21, Delete "pKASI," and insert --pKAS1.--.

Column 111, Line 22, Delete "pKASI," and insert --pKAS1.--.

Column 114, Line 27, After "ctc" delete "aca" and insert --acc--.

Column 114, Line 29, Delete "λMBL3/SP6/T7" and insert - - λEMBL3/SP6/T7 - -.

Column 114, Line 57 (Approx.) Delete "(SEQ ID NO: 84)" and insert - - (SEQ ID NO: 184) - -.

Column 117, Line 54 (Approx.) Delete "ar" and insert -- as --.

Column 118, Line 4 (Approx.) Delete "Sceening" and insert -- Screening --.

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Column 118, Line 37 (Approx.) Delete "3" and insert -- 3' --.

Column 119, Line 11 (Approx.) "Jk1" and insert - - Jκ1 - -.

Column 119, Line 21, "pKCi" and insert - - pKCI - -.

Column 119, Line 39 (Approx.), "KCIe-1399," and insert - - KCle-1399, - -.

Column 119, Line 58, Delete "integratians" and insert - - integrations - -.

Column 120, Line 5, "K" and insert - - κ - -.

Column 120, Line 8, Delete "insolublized" and insert - - insolubilized - -.

Column 120, Line 65, "JHD++/JKD+++" and insert - - JHD++/JKD++ - -.

Column 121, Line 53 (Approx.), Delete "Souther" and insert - - Southern - -.

Column 121, Line 60, Delete "hman" and insert - - human - -.

Column 122, Line 54, Delete "intergration" and insert - - integration - -.

Column 122, Line 58, Delete "intergration" and insert - - integration - -.

Column 123, Line 7, Delete "s)" and insert - - (s) - -.

Column 123, Line 10, Delete "respone" and insert -- response --.

Column 124, Line 18, Delete "Jγ1Cγ1)." and insert - - Jλ1Cλ1).- -.

Column 125, Line 49, Delete "constan" and insert - - constant - -.

Column 125, Line 49, Delete "and" before "J_H".

Column 125, Line 49, Delete "gene(s);" and insert - - gene(s)); - -.

Column 129, Line 53 (Approx.), Delete "gta" and insert - - gra - -.

Column 130, Line 43 (Approx.) Delete "[" and insert - - μ - -.

Column 130, Line 48 (Approx.), After "PCR" delete "." And insert a space between "PCR" and "fragments".

/AW/ **~~Column 131, Line 24 (Approx.) Delete~~ "TGGGGTCAAGGAACCTCAGTCACCGTCTCCTCAGG~~and~~**

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New York, New York 10150-5257

Insert - - TGGGGTCAAGGAACCTCAGTCACCGTCTCCTCAG- - -,.

/AW/ Column 131-132 Line 32 (Approx.) After "(SEQ ID NO: 168)" insert - - the sequence of the unmutated μ gene is:
...ctggtcctcagAGAGTCAGTCCTTCCCAAATGTCTTCCCCCTCGTC...
GluSerGlnSerPheProAsnValPheProLeuVal - - as a new paragraph.

Column 131, Line 35 Delete "Factor" and insert - - Vector - -.

Column 132, Line 6, Delete "p" and insert -- μ - -.

Column 134, Line 21, Delete "4x17 μl" and insert - - 4x17E1 - -.

Column 135, Line 58 (Approx.) Delete "mm," and insert - - nm, - -.

Column 136, Line 27, Delete "y1" and insert - - γ1 - -.

Column 136, Line 61, Delete "+, γ1+" and insert - - μ^+, $\gamma 1^+$ - -.

Column 137, Line 2, Delete "IgD+," and insert - - IgD^+, - -.

Column 137, Line 3, Delete ""IgM-phenotype" and insert - - IgM^- phenotype - - .

Column 139, Line 30 (Approx.) Delete "$JHD^+/+J_\kappa D^-$," and insert - - $JHD^+/^+J_\kappa D^-$, - -.

Column 139, Line 57 (Approx.) Delete "V," and insert - - V_1 - -.

Column 140, Line 4, Delete "C2," and insert -- HC2,--.

Column 140, Line 44, Delete "CK" and insert -- Cκ - -.

/AW/ Column 140, Line 46, Cκ and insert Cκ - -.

Column 141, Line 8, Delete "255A" and insert - - 2550 - -.

Column 141, Line 9, Delete "y" and insert - - γ - -.

Column 141, Line 10, After "described" delete "[references]".

Column 142, Line 4, Delete "a" and insert - - α - -.

Column 142, Line 56, Delete "K" and insert - - κ - -.

Column 145, Line 16, Delete "IgM" and insert - - IgMκ - -.

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Column 146, Line 62 (Approx.) Below "sequence is:" delete "The heavy chain VDJ junction sequence is:".

/AW/ ~~Column 146, Line 64 (Approx.), Delete "TCTGCGAGA (g ggt gg)" and insert - - TCTGCGAGAC g ggt gg - -.~~

/AW/ ~~Column 147, Line 3 (Approx.), Delete "TGG" and insert - - TGC - -.~~

Column 147, Line 6 (Approx.), "vk65.15" and insert - - Vk65.15 - -.

/AW/ ~~Column 147, Line 7 (Approx.), "AT" and insert - - AAT - -.~~

Column 147, Line 31, Delete "30.3" and insert - - 30.0 - -.

Column 148, Line 26, Delete "plasmid" before "β-lactamase".

Column 151, Line 10, "cagcaa" and insert - - cag caa - -.

Column 152, Line 21, After "function." Delete "HCo7." and insert the same as sub-heading.

Column 153, Line 2, After "two" delete "endogenous locus disruptions and hemizygous for the two".

Column 154, Line 39 (Approx.) Delete "α-3')" and insert - - cc-3') - -.

Column 154, Line 40 (Approx.) Delete "α-3')" and insert - - cc-3') - -.

Column 154, Line 41 (Approx.) Delete "α-3')" and insert - - cc-3') - -.

Column 154, Line 42 (Approx.) Delete "α-3')" and insert - - cc-3') - -.

Column 154, Line 46 (Approx.) Delete "α-3')" and insert - - cc-3') - -.

Column 155, Line 11, "Vκ" and insert - - Vk - -.

Column 156, Line 18, "southern blot" and insert - - Southern Blot - -.

Column 156, Line 25, Delete "λAC" and insert - - YAC - -.

Column 156, Line 35 (Approx.) Delete "K" and insert - - κ - -.

Column 156, Line 37, Delete "k" and insert - - κ - -.

MAILING ADDRESS OF SENDER:
Flynn Barrison
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

Column 156, Line 38, Delete "k" and insert - - κ - -.

Column 156, Line 52 (Approx.) "pCR11" and insert - - pCRII - -.

Column 157, Line 23, Delete "B220+cell" and insert - - B220^{+} cell - -.

Column 159, Line 13, Delete "2 mg/mil," and insert - - 2 mg/ml, - -.

Column 163, Line 8 (Approx.) Delete "10^{5}" and insert - - 10^{4} - -.

Column 163, Line 9 (Approx.) Delete "$1.1\ (\pm 1.5) \times 10^{4}$" and insert - - $1.1\ (\pm 0.41) \times 10^{5}$ - - .

Column 163, Line 11 (Approx.) Delete "10^{5}" and insert - - 50^{5} - - .

Column 164, Line 32 (Approx.), Delete "10CS," and insert - - 10C5, - -.

Column 164, Line 35 Delete "JHD/JCKD/HC2/KCoS" and insert - - JHD/JCKD/HC2/KCo5 - -.

Column 167, Line 38 (Approx.), Delete "Secrment" and insert - - Segment - -.

Column 167, Line 39 (Approx.), Delete "CDR" and insert - - CDR3 - -.

/AW/ **Column 167, Line 40 (Approx.), Delete "DITMVRGVPH" and insert ~~- DITMVRGVPH~~ - -.**

Column 167, Line 40 (Approx.), Delete "VkA27/A11" and insert - - VkA27/A1 - -.

/AW/ **Column 167, Line 42 (Approx.), Delete "PANWNWVFVL" and insert ~~- PANWNWVFVL~~ - -.**

~~Column 167, Line 44 (Approx.), Delete "VINWFDP" and insert - - VVINWFDP - -.~~

/AW/ **Column 167, Line 46 (Approx.), ~~Delete "VINWFDP"~~ and insert - - VVINWFDP - -.**

Column 167, Line 48 (Approx.), Delete "DQLGLFDY" and insert ~~- DDQLGLFDY.~~ - -.

Column 169, Line 12, After "following" delete "2".

Column 169, Line 20 (Approx.) Delete "NO:242)," and insert - - NO:232), - -.

Column 170, Line 3, Delete "0-529" and insert - - o-529 - -.

Column 170, Line 20, (Approx.), Delete "by" and insert - - bp - -.

MAILING ADDRESS OF SENDER:
Flynn Barrison
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

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Column 171, Line 38, "pCG7-96 (SEQ ID" and insert - - pCK7-96 (SEQ ID NO:218) - -.

Column 175, Line 53 Delete

/AW/ **"GTGACTGGTGAGTACTCAACCAAGTCATTCTGAGAATAGTGTATGCGGCGACCG AGT" and insert - - GTGACTGGTGAGTACTCAACCAAGTCATTCTGAGAATAGTGTATGCGGCGACCG AGT - -.**

Column 189, Line 46, Delete "IL-BRB" and insert - - IL-8RB - -.

Column 189, Line 50, Delete "my/mil" and insert - - my/ml - -.

Column 189, Line 56, Delete "^{125}I]-" and insert - - ^{125}I- - -.

Column 190, Line 12, Delete "Ca++concentrations" and insert - - Ca^{++}concentrations - -.

Column 190, Line 24, "Ca++flux." and insert - - Ca^{++} flux. - -.

Column 407, Line 41 (Approx.) In Claim 5 delete "Vκsegments" and insert - - Vκ segments - - .

Column 408, Line 26, In Claim 9, delete "claim 6," and insert - - claim 5, - -.

Column 408, Line 53, In Claim 14, delete "claim 6" and insert - - claim 5, - -.

MAILING ADDRESS OF SENDER:
Flynn Barrison
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

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United States Patent and Trademark Office
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Pepper Hamilton LLP
500 Grant Street
One Mellon Bank Center, 50th Floor
Pittsburgh PA 15219-2502

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Scott A. WALDMAN :
Application No. 09/724,983 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. TJU-2444 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 22, 2004. A Notice of Appeal along with a three (3) month extension of time under the provisions of 37 CFR 1.136(a) was filed May 23, 2005. On December 23, 2005 a Request for Continued Examination (RCE) along with a five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The RCE was improper as it did not include a proper submission which included a reply which is responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action; nonetheless the RCE is treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. See 37 CFR 1.114(d) and MPEP 706.07(h)(X). Therefore, the application became abandoned on December 24, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Information Disclosure Statement and amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of November 22, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 1642 for appropriate action on the concurrently filed amendment and Information Disclosure Statement.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WILLIAM E. LEWIS
RYAN MASON & LEWIS LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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DEC 1 5 2005

OFFICE OF PETITIONS

In re Application of

Chen, et al.

Application No. 09/725,009

Filed: November 28, 2000

Attorney Docket No.**SOM9-2000-0008/1963 7390**

DECISION ON PETITION

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

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed April 19, 2005. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 20, 2005. A Notice of Abandonment was mailed on November 21, 2005.

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(d).

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

The proper reply to the Notice of Allowance and Issue Fee Due must include the issue fee payment of $1,400.00. Petitioner authorized the amount of $1045.00 to be charged to deposit account 09-0459 for payment of the issue; it appears that petitioner believed that the amount of $355.00 toward the issue fee was previously charged. The record reflects that the amount of $355.00 was charged previously, but was refunded. At the time this decision was authored, deposit account 09-0459 did not sufficient funds to charge the issue fee of $1,400.00. The petition is dismissed, accordingly.

Any renewed petition filed must be accompanied by the issue fee payment.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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WILLIAM E. LEWIS
RYAN MASON & LEWIS LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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OFFICE OF PETITIONS

In re Application of

Chen, et al.

Application No. 09/725,009

Filed: November 28, 2000

Attorney Docket No.**SOM9-2000-0008/19637390**

DECISION ON PETITION

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

The renewed petition is **granted**.

This application became abandoned for failure to respond in a timely manner to Notice of Allowance and Issue Fee Due mailed April 19, 2005. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 20, 2005. A Notice of Abandonment was mailed on November 21, 2005. A petition under 37 CFR 1.137(b) was filed on December 2, 2005, and dismissed by a decision mailed December 15, 2005.

The issue fee of $1,400.00 was received on January 2, 2006.

Form PTOL 85-B received January 3, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of
Thompson, et al.
Application No. 09/725,019
Filed: November 29, 2000
Atty. Dkt. No.: 10799/12
For: DNA ENCODING A PLANT DEOXYHYPUSINE SYNTHASE, A PLANT EUKARYOTIC INITIATION FACTOR 5A, TRANSGENIC PLANTS AND A METHOD FOR CONTROLLING SENESCENCE PROGRAMMED AND CELL DEATH IN PLANTS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(a), filed June 22, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The first executed oath or declaration filed establishes the inventive entity of an application. The provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. The above-identified application was filed November 29, 2000 with an executed declaration filed pursuant to 37 CFR 1.63(d). There is no indication in the record that the declaration has been objected to by the examiner. Thus, it would appear that the petition under 37 CFR 1.47 is inappropriate.

Any renewed petition must clarify the purpose for which petitioner is attempting to submit a new declaration. If petitioner has no intention of submitting a renewed petition,

petitioner should contact the undersigned so that the instant application file can be forwarded promptly to the Publications Division for processing into a patent.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand/courier service:	Office of Petitions 220 20th Street S. Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310. Please be advised that on or about September 28, 2004, the main telephone number for the Office of Petitions will change to (571) 272-3282.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE BROADWAY
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of :
Thompson, et al. : DECISION REFUSING STATUS
Application No. 09/725,019 : UNDER 37 CFR 1.47(a)
Filed: November 29, 2000 :
Atty. Dkt. No.: 10799/12 :
For: DNA ENCODING A PLANT :
DEOXYHYPUSINE SYNTHASE, A :
PLANT EUKARYOTIC INITIATION :
FACTOR 5A, TRANSGENIC PLANTS :
AND A METHOD FOR CONTROLLING :
SENESCENCE PROGRAMMED AND CELL :
DEATH IN PLANTS :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 16, 2004.

The petition is **DISMISSED AS INAPPROPRIATE**.

The Notice of Allowability indicated that the declaration of record improperly claimed foreign priority to a PCT application and requested correction. In response, applicants submitted a petition under 37 CFR 1.47 wherein it is alleged that previously signing inventor Dongen Lily Lu refused to execute the declaration.

The first executed oath or declaration filed establishes the inventive entity of an application. The provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. The above-identified application was filed November 29, 2000 with an executed declaration filed pursuant to 37 CFR 1.63(d). Thus, a petition under 37 CFR 1.47 is inappropriate and cannot be considered on the merits.

However, as petitioners are seeking to correct the priority data contained in the application, petitioners should note that no petition is necessary for this purpose. Furthermore, this may be accomplished without the submission of a supplemental declaration. Petitioners should promptly submit an Application

Data Sheet ("ADS") in compliance with 37 CFR 1.76 deleting reference to the faulty claim.

To deter further processing, petitioners are given TWO (2) WEEKS from the mail date of the instant decision to submit the required correction to the examiner of record in Group Art Unit 1683.

In future, petitioners are advised that the submission of a supplemental ADS should occur prior to the payment of the issue fee.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of :
Thompson, et al. :
Application No. 09/725,019 :
Filed: November 29, 2000 :
Atty. Dkt. No.: 10799/12 : LETTER
For: DNA ENCODING A PLANT :
DEOXYHYPUSINE SYNTHASE, A :
PLANT EUKARYOTIC INITIATION :
FACTOR 5A, TRANSGENIC PLANTS :
AND A METHOD FOR CONTROLLING :
SENESCENCE PROGRAMMED AND CELL :
DEATH IN PLANTS :

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This letter is in response to the "Response to Decision Refusing Status Under 37 C.F.R. 1.47(a)" filed December 14, 2004.

Receipt of the Application Datasheet submitted December 14, 2004 is hereby acknowledged.

Further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Publications Division for further processing.

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

Alesia M. Brown
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. 12

Cytoskeleton Inc.
c/o Ashley Davis
1830 S. Acoma St.
Denver CO 80223

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Davis, et al.
Application No. 09/725,030
Filed: November 29, 2000
Attorney Docket No. N/A
FOR: ANTI-S-PHASE TUBULIN LIGANDS

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 9, 2002, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 27, 2001, which set a period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 28, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that they did not receive the December 27, 2001 non-final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirements (1) and (3).

With respect to (1), petitioners have not submitted an acceptable reply to the December 27, 2001 non-final Office action. Since petitioners state that they did not receive the December 27, 2001

non-final Office action, a copy of is enclosed. The copy of the correspondence should enable petitioner to craft a proper reply.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. 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.

A review of the record indicates no irregularity in the mailing of the December 27, 2001 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioners have not proven nonreceipt because (1) practitioners did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) practitioners did not include a copy of the docket record where the non-received Office communication would have

been entered had it been received and docketed.

Petitioners have not explained how in-coming correspondence from the Office is processed, by whom it is processed, how due dates are docketed, and by whom they are docketed. Petitioners must supply information regarding the training provided to the personnel responsible for the docketing, degree of supervision of their work, and checks on the described work which were used to assure proper execution of assigned tasks. The persons who would have processed the correspondence at issue and docketed due dates must provide statements. In addition, petitioners must show copies of mail ledger, filewrappers, and such other records as may exist which would substantiate that petitioners exercised due diligence with respect to his most important business.

ALTERNATIVE VENUE

Petitioners should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:
Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

By facsimile:
(703) 308-6916
Attn: Office of Petitions/ E. Shirene Willis

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

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

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

Enclosures: December 27, 2001 non-final Office action

blank PTO/SB/64-- PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Privacy Act Statement

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Paper No. 14

Cytoskeleton Inc.
c/o Ashley Davis
1830 S. Acoma St.
Denver CO 80223

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FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of
Davis, et al.
Application No. 09/725,030
Filed: November 29, 2000
Attorney Docket No. N/A
FOR: ANTI-S-PHASE TUBULIN LIGANDS

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2002, to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(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 timely reply to the non-final Office action, mailed December 27, 2001, which set a period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 28, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

With respect to (1), petitioners have not submitted an acceptable reply to the December 27, 2001 non-final Office action. Status requests will not suffice. An acceptable reply to the December 27, 2001 non-final Office action would be either an amendment or a continuing application. The application cannot be revived until an acceptable reply is submitted.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions/ E. Shirene Willis

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

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

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

Received from < 303 322 2257 > at 2/25/03 1:38:41 PM [Eastern Standard Time]

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OFFICE OF PETITIONS

Paper No. 14

Cytoskeleton Inc.
c/o Ashley Davis
1830 S. Acoma St.
Denver CO 80223

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FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of
Davis, et al.
Application No. 09/725,030
Filed: November 29, 2000
Attorney Docket No. N/A
FOR: ANTI-S-PHASE TUBULIN LIGANDS

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2002, to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(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 timely reply to the non-final Office action, mailed December 27, 2001, which set a period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 28, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

← Do they have one reply if so whats wrong?

With respect to (1), petitioners have not submitted an acceptable reply to the December 27, 2001 non-final Office action. Status requests will not suffice. An acceptable reply to the December 27, 2001 non-final Office action would be either an amendment or a continuing application. The application cannot be revived until an acceptable reply is submitted.

BEST AVAILABLE COPY

2.

#16

ARTICLE #1 OFFICE ACTION 12-27-01 09/725

09/725/030 WITH NUMBERED POINTS.

— 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 Oct 18, 2001

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) 3-7 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 3-7 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

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.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

U. S. Patent and Trademark Office
PTO-326 (Rev. 9-00)

Office Action Summary

Part of Paper No. 8

4.

Sent By: CYTOSKELETON INC; 303 322 2257 ; Feb-25-03 11:10AM; Page 3

1. Pursuant to the directives of paper No. 7 (filed 10/18/01), claims 1 and 2 have been cancelled, and claims 3-7 amended. Claims 3-7 are pending.

2. Applicants' species election (iodo-acetamido benzoyl ethyl acetate) is acknowledged

3. The assumption at this point is that the phrase "in combination with claim 3" (claims 4-7) is intended to mean *a tubulin ligand according to claim 3*, rather than a mixture of two compounds. If this assumption turns out to be correct, the possibility of a revised restriction exists.

*

4. Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) or (b)(2) is granted permitting their use as formal drawings. In the event applicant wishes to use the drawings currently on file as formal drawings, a petition must be filed for acceptance of the photographs or color drawings as formal drawings. Any such petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17(i), three sets of drawings or photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

> The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

5.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

*

5. If applicant desires priority based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. Thus, the following can be inserted following the title (on page 1 of the specification) but before the heading "Field of the Invention":

> This application is a continuation-in-part of application 09/258732, filed 2/26/99, now US Patent 6,294,695.

*

6. Claims 3-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,294,695. Although the conflicting claims are not identical, they are not patentably distinct from each other.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. In re Vogel, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d)

6.

*

7. The following is a quotation of the first paragraph of 35 U.S.C. §112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

8. Claim 7 makes reference to treatment of various diseases. However, there is no evidence that even one of these can be effectively treated. The possibility does nevertheless exist that one or more of the following could become enabled, given appropriate evidence:

> The tubulin ligand according to claim 3, which is effective to inhibit proliferation of helminths.
>
> The tubulin ligand according to claim 3, which is effective to inhibit proliferation of trypanosomes.
>
> The tubulin ligand according to claim 3, which is effective to inhibit replication of a virus.
>
> The tubulin ligand according to claim 3, which is effective to inhibit growth of a fungus.

Pat

*

9. Claims 3-7 are rejected under 35 U.S.C. §112 second paragraph, as being indefinite for

Sent By: CYTOSKELETON INC; 303 322 2257 ; Feb-25-03 11:11AM; Page 8

failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 3 recites the term "G1/S-phase". This term may be used, but only if accompanied by further explanation of its meaning.

- Claim 3 is drawn essentially to a compound that causes a mechanism. How is it possible for any compound to cause a mechanism? A compound can certainly inhibit a biochemical process, or stimulate one; however, a compound cannot cause a mechanism. The following would be an improvement, although does not resolve all issues:

A tubulin ligand ~~that effects~~ G1/S-phase arrest of a cell.

- Each of claims 4-7 recite the phrase "in combination with claim 3". The intended meaning is unclear. One possible interpretation is that applicants intend to refer to a mixture of two compounds. If this is not intended, claims 4-7 should be amended to clarify this. It is suggested that the following phrase be used in each of claims 4-7, if consistent with intentions:

A tubulin ligand according to claim 3...

- The nomenclature used in claims 4-5 is somewhat ambiguous. For example. the name does not describe the position of the iodine atom (it could be present, for example, on the phenyl ring); as another example, the regiochemistry around the phenyl ring is not specified. It is suggested that applicants supply a structure in each of claims 4-5.

- Claim 6 is indefinite as to the intended derivative.

*

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 action.

A person shall be entitled to a patent unless -

Sent By: CYTOSKELETON INC; 303 322 2257 ; Feb-25-03 11:11AM; Page 7

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

11 contd

Claims 3, 6 and 7 are rejected under 35 U.S.C. §102(a) as being anticipated by Jiang (*Anti-cancer Drug Design* **13**, 735, 1998).

Not true
HAABC compounds only continued after tab legend

Jiang discloses the invention substantially as claimed.

Thus, the claims are anticipated.

[This reference was published in October of 1998. In applicants declaration (supplemental priority data sheet section), reference was made to application 09/258,732. However, application 09/258,732 was filed on 2/26/99, not in April of 1998. There is also no mention of provisional application 60/079,520 in applicants' declaration. Accordingly, the cited reference predates the filing of application 09/258732, and the inventive entity of the reference differs from that of the instant application].

which one

60 079 520 was not available to author

12 All but two of the references have been stricken from the IDS. None of the references have been received, although two of the references were nevertheless obtained by the examiner. It is suggested that applicants provide a copy of the remaining references.

∴ None left

13 No claim is allowed. — definitive statement!

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton. Phone: (703) 308-3213.

An inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

D. Lukton

DAVID LUKTON
PATENT EXAMINER
GROUP 1800

9.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Filing Date	
				First Named Inventor	Ashley Davis
				Group Art Unit	
				Examiner Name	
Sheet	1	of	1	Attorney Docket Number	

jc625 U.S. PTO 09/725030

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
	1.1	A. Davis et al. Novel suicide ligands of tubulin arrest cancer cells in S-phase. Neoplasia, 1 (6), p.498-507. 1999.	
	1.2	Jaing J.D. et al. Synthesis, cancericidal and anti-microtubule activities of 3-haloacetamido-benzoyl-ureas. Anti-Cancer Drug Design, 13 (7), p.735-747. 1998.	
X	12	Jiang J.D. et al. 1998. Inhibition of microtubule assembly in tumor cells by 3-bromoacetylamino benzoylurea, a new cancericidal compound. Cancer Research, 58, p.2126-2133.	
X	13	Jiang J.D. et al. 1998. 3-iodoacetamido-benzoylurea A novel cancericidal tubulin ligand that inhibits microtubule polymerization, phosphorylates bcl-2 and induces apoptosis in tumor cells. Cancer Research, 58, 5389-5395.	
X	33	Shan B. et al. 1999. Selective covalent modificatio of beta-tubulin residue Cys-239 by T138067, an antitumor agentwith in vivo efficacy against multi-drug resistant tumors. Proc. Natl. Acad. Sci. USA, 96, (10) p. 5686-90.	

Examiner Signature	David Litten	Date Considered	12/21/01

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] Unique citation designation number. [2] Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 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.

10.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

Cytoskeleton Inc.
c/o Ashley Davis
1830 S. Acoma St.
Denver CO 80223

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Davis, et al.
Application No. 09/725,030
Filed: November 29, 2000
Attorney Docket No. N/A
FOR: ANTI-S-PHASE TUBULIN LIGANDS

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed February 25 2003 by facsimile, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 27, 2001, which set a period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 28, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

After the mailing of this decision, the application file will be forwarded to Technology Center 1600 for consideration of the amendment filed on February 25, 2003.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

COZEN O' CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103

In re Application of :
DAVIS, ASHLEY STUART : **DECISION ON PETITION**
Application No. 09/725030 :
Filed: November 29, 2000 :
Attorney Docket No. :

This is a decision on the Petition To Withdraw Holding of Abandonment (CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on September 12, 2006.

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

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed February 28, 2006, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed July 28, 2006.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on May 26, 2006, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees. As a result thereof, the patent application became abandoned on July 28, 2006.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act as a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004.

Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

At the Petitioners request the petition will be forwarded to the Office of Petitions to consider the Petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to filing the petition under 37 CFR 1.137(b) should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision can be directed to the undersigned in the Office of Patent Publication at 703-308-9250, ext. 163

Kendrick Spruill
Quality Control Assistant
Office of the Director
Office of Patent Publications

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OFFICE OF PETITIONS

PEPPER HAMILTON LLP
500 GRANT STREET
ONE MELLON BANK CENTER, 50TH FLOOR
PITTSBURGH, PA 15219-2502

In re Application of :
Ashley S. Davis, et al. :
Application No. 09/725,030 : ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 12, 2006.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before May 30, 2006. A Notice of Abandonment was mailed on July 28, 2006. In response, on September 12, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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 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: PAUL K. LEGAARD, PH. D.
COZEN O'CONNOR
1900 MARKET STREET, 5TH FLOOR
PHILADELPHIA, PA 19103

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/16/08

Paper No.: —

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/825033 Patent No: 7269191 B2

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: _____

HYUNG S. SOUGH
SUPERVISORY PATENT EXAMINER SPE

2188
Art Unit

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MAIL

AUG 13 2001

Paper No. 4

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Pillsbury Winthrop, LLP
1600 Tysons Boulevard
McLean, Virginia 22102

In re Application of: Steven Himes	)	
Application No. 09/725,080	)	
Filed: November 29, 2000	)	**DECISION ON PETITION FOR**
For: LOYALTY LINK METHOD AND APPARATUS FOR INTEGRATING CUSTOMER INFORMATION WITH DEALER MANAGEMENT INFORMATION	)	**ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed January 29, 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.

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

Applicant's submission is deficient in that it merely reproduces the Abstracts provided in each reference accompanied by a general description of the disclosed invention. 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). That is, there is no discussion pointing out how the claimed subject matter is patentable over the references.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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

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DEC 27 2001

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 7

Pillsbury Winthrop, LLP
1600 Tysons Boulevard
McLean, Virginia 22102

In re Application of: Steven Himes	)	
Application No. 09/725,080	)	
Filed: November 29, 2000	)	**DECISION ON PETITION FOR**
For: LOYALTY LINK METHOD AND APPARATUS FOR INTEGRATING CUSTOMER INFORMATION WITH DEALER MANAGEMENT INFORMATION	)	**ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the renewed petition, filed October 23, 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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Paper No. 17

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APARTMENT 15 WEST
CHICAGO, IL 60614

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OFFICE OF PETITIONS

In re Application of :
Sekendur :
Application No. 09/725,301 :
Filed: November 29, 2000 :

ON PETITION

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

The petition is **DISMISSED**.

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

A final Office action was mailed on June 3, 2003.

A proper reply to a final rejection consists only of
(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee, or
(3) a RCE or CPA (a CPA may not be filed for an application with a filing date on or after May 29, 2000).

On September 3, 2003, an amendment was filed. However, the amendment did not prima facie place the application in condition for allowance.

An Advisory Action was mailed on October 21, 2003. The advisory action did not set a new time period to respond and the time period set in the final Office action continued to apply.

The above-identified application became abandoned on September 4, 2003. A Notice of Abandonment was mailed on February 9, 2004

Petitioner contends that an amendment was mailed on October 30, 2003.

Three problems exist with the amendment.

The first problem is that the amendment was filed without an extension of time. The June 3, 2003 Office action set a three month period to respond unless an extension of time was obtained. The October 30, 2003 amendment was filed after the expiration of the three months and without an extension of time. Therefore, even if the amendment had been received on October 30, 2003, it would have not been entered since the amendment was untimely.

The second problem is that the language on the Certificate of Mailing Sheet is insufficient. The sheet states that "this correspondence" is being mailed but fails to state what "this correspondence" consists of. When the Certificate of Mailing is not typed on the response itself but on another sheet, it must plainly state the type of papers being mailed along with the certificate. For example, "this correspondence," could be replaced with "this correspondence consisting of an amendment."

The third problem is that, even if the amendment had been timely, it was improper. The examiner has determined that the amendment fails to prima facie place the application in condition for allowance and is therefore an improper response to the final Office action.

The petition cannot be granted since a proper reply to the Office action has not been submitted.

Any renewed petition, or petition under 37 CFR 1.137(b), should be accompanied by a proper reply in the form of a Notice of Appeal, the filing of a continuation application or a RCE. If petitioner fails to reply in the form of a Notice of Appeal (and fee), a proper continuing application, or a proper RCE, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application. A form which may be used for purposes of filing a RCE is enclosed.

The instant petition is also dismissed because petitioner has not shown 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. The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[1] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[2]

Petitioner failed to request an extension of time, accompany the reply with a proper certificate of mailing, or file a proper amendment placing the application in condition for allowance.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

The 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 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).

---

[1] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[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).

The remainder of this decision will address issues raised by petitioner in papers which accompany the petition.

Office records do not indicate the receipt of papers addressed to an application entitled, "Hearing Tube Headset."

The Office has received two applications which, upon only a brief review, appear to be identical except for the title. These applications are application nos. 09/725,301 and 09/725,883.

This decision assumes that the issues with the content of the instant application have been resolved and that the only issue remaining is the filing date. The content issue seems to have been resolved by the filing of an amendment changing the title and making other corrections to the specification. In answer to a question posed by petitioner, an application is not entitled to the benefit of a Certificate of Mailing date. If an application is mailed using a Certificate of Mailing, the filing date will be the date of receipt and not the date the application was mailed.

This decision will not address any problems which may exist with 09/725,883. If problems remain with that application, petitioner may wish to file a petition under 37 CFR 1.53 for that application.

The remaining issues raised by petitioner are the examiners failure to telephone petitioner and/or write acceptable claim(s).

The granting of an interview is to a large extent discretionary. However, the examiner may decide to grant such an interview if petitioner calls the examiner. The examiner's telephone number is 703-305-8591. Petitioner may wish to call the examiner and not require the examiner to take the initiative to call petitioner.

MPEP 707.07(j) states,

> When, during the examination of a pro se application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment.

The examiner may not have drafted any claims due to a belief that patentable subject matter is not present. Petitioner may wish to discuss this issue with the examiner when petitioner calls the examiner.

As stated in at least one prior Office action, if attempts to reach the examiner are unsuccessful, petitioner may wish to call his supervisor Richard Hjerpe. If a call is placed to this supervisor, petitioner may wish to inform him that petitioner has an almost identical application assigned to another examiner in Technology Center 2600. Such information may be viewed by the supervisor as being very important and will allow the supervisor to ensure that Office time and resources are used efficiently.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Forms PTO/SB/30 (RCE) and PTO/SB/64 (Petition under 37 CFR 1.137(b))

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

ORAL SEKENDUR
399 WEST FULLERTON PARKWAY
APARTMENT 15 WEST
CHICAGO, IL 60614

COPY MAILED

AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Sekendur :
Application No. 09/725,301 :
Filed: November 29, 2000 :

ON PETITION

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

The petition is **DISMISSED**.

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

Facts:

A final Office action was mailed on June 3, 2003.

A proper reply to a final rejection consists only of
(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee, or
(3) a RCE or CPA (a CPA may not be filed for an application with a filing date on or after May 29, 2000).

On September 3, 2003, an amendment was filed. However, the amendment did not prima facie place the application in condition for allowance.

An Advisory Action was mailed on October 21, 2003. The advisory action did not set a new time period to respond and the time period set in the final Office action continued to apply.

The above-identified application became abandoned on September 4, 2003. A Notice of Abandonment was mailed on February 9, 2004

Petitioner contends that an amendment was mailed on October 30, 2003. However, the amendment was improper. In addition, the amendment was not accompanied by payment for an extension of time.

Analysis:

The petition cannot be granted since a proper reply to the Office action has not been submitted.

The petition cannot be granted because petitioner has failed to prove that the entire delay in the submission of a proper reply was unavoidable.

Petitioner focuses on the examiner's conduct while neglecting to fully discuss petitioner's conduct. What prevented petitioner from timely filing a proper reply to the final office action? What has prevented petitioner from filing a proper reply to the final office action prior to the date of this decision? Even if petitioner could prove mistakes by the examiner, such proof would not necessarily establish that petitioner's failure to file a proper reply was unavoidable.

It is unnecessary at this time to determine why the examiner has not held a telephone interview or drafted a claim on behalf of petitioner. If petitioner wishes to file a petition requesting that the examiner be compelled to take one of these steps, then petitioner should file a petition under 37 CFR 1.181. If filed, such a petition will be decided by the Group Director for the examiner's technology center and not the Office of Petitions. Such a petition would only be proper *after* the revival of the application under 37 CFR 1.137.

The instant petition for revival of the instant application should not address the filing date and content of application number 09/725,883. If a problem exists with that case, then papers separately addressed to that case should be filed. Papers concerning issues with application no. 09/725,883, should not be filed in the instant case. The examiner assigned to examine application no. 09/725,883, is Heather Mills. She can be contacted at 703-306-4152. Since she is in possession of the physical file, she is best party to answer your questions concerning the exact content of the application. In addition, she is the best party to answer your questions as to the delay in the examination of the application. *If the applications contain the same content, then petitioner may wish to allow the instant application to remain abandoned and prosecute the other application.* A party may *not* prosecute two identical applications at the same time; therefore, a choice must be made if the applications are identical.

If after speaking with Heather Mills, petitioner still wishes to revive the instant application, then petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ORAL SEKENDUR
399 WEST FULLERTON PARKWAY
APARTMENT 15 WEST
CHICAGO, IL 60614

COPY MAILED

MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of
Sekendur
Application No. 09/725,301
Filed: November 29, 2000
For: Absolute Optical Position Determination

Decision Dismissing Petition

This is a decision in response to the paper entitled, "RESPONSE TO OFFICE ACTION MAILED 6/3/03" filed November 19, 2004, which is being treated as a renewed petition under 37 CFR 1.137(a) to revive the above-identified application.

The petition is **DISMISSED**.

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

A decision dismissing a previous petition under 37 CFR 1.137(a) was mailed on August 2, 2004.

The instant paper was received on November 19, 2004.

The paper appears to be a copy of the amendment filed during September of 2003, except for the following changes: the date of 9/2/03 has not had the 2 crossed out and replaced with a 1 and the words "Exhibit A" have been stamped on the Certificate of Mailing page.

Since the paper was filed after the dismissal was mailed, the Office will assume the paper is intended to be a response to the dismissal. In other words, the paper will be construed as a request for reconsideration under 37 CFR 1.137(a).

The request for reconsideration was due on or before October 2, 2004,[1] unless accompanied by the proper payment for an extension of time. For the November 19, 2004 paper to be timely, it would need to have been filed with payment for a two month extension of time. Payment for a two month extension of time was not submitted. Therefore, the request is dismissed as untimely.

Even had the request been timely filed, it is simply a copy of a paper which was filed during 2003, except for minor changes. Petitioner has provided no new evidence since the previous decisions were mailed. Therefore, for the reasons discussed in previous decisions, the request for consideration is dismissed. The prior decisions are hereby incorporated by reference.

---

[1] The decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

APR 9 2002

ASSOCIATE COUNSEL (PATENTS), CODE 1008.2
NAVAL RESEARCH LABORATORY
WASHINGTON DC 20375-5000

#5

In re Application of
Alok Singh et al
Serial No.: 09/725,309
Filed: November 29, 2000
Attorney Docket No.: 79212

: PETITION DECISION TO RESTART PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR § 1.181, filed March 29, 2002, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on February 13, 2002, setting a one month shortened statutory period for reply. Applicants state that they did not receive the Office action until March 28, 2002, more than one month after the mail date thereof, and provide copies of the docketing receipt stamped first page of the Office action as evidence thereof. The first page of the Office action also bears a stamp for TC 1600/2900 indicating receipt of the paper on March 6, 2002. It may be presumed that the action was returned to the Office by the US Postal Service and that it was remailed subsequent to that date. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed February 13, 2002, is hereby restarted as of applicants' date of receipt, March 28, 2002. The time period for reply remains as set therein.

Applicants' reply to the Office action accompanied the petition and will be entered and the application forwarded to the examiner for further consideration.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MAIL

FEB 02 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of :
Crosby et al. :
Application No. 09/725,326 :
Filed: November 28, 2000 :
For: :

TECHNIQUES FOR GENERATING A DISTRIBUTING LOW-RESOLUTION DIGITAL IMAGE CAPABLE OF VIEWING IN ANY RESOLUTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on October 27, 2002.

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

The Attorney(s)/Agent(s) listed in the request are withdrawn.

Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to customer number 01333 at 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:
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650
Attn: Frank Pincelli, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Bayer Chemicals Corporation
100 Bayer Road
Pittsburgh, PA 15205-9741

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
U. S. Leverkusen et al. :
Application No. 09/725,375 : ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. Mo-5863/LeA 34,043 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 12, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 13, 2003.

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.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

The application is being forwarded to Technology Center AU 1723.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

COPY MAILED

MAY 01 2008

In re Application of :
Erin M. BOURKE-DUNPHY et al. :
Application No. 09/725,382 : DECISION ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. **MS160269.1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 03, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

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

This application is being referred to Technology Center AU 2192 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of :
Wesley W. Whitmyer, Jr. :
Application No. 09/725,394 : ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. 03000- P0004C WWW/CJP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 11, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 12, 2007. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/845,372.

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
www.uspto.gov

Paper No. 11

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

MAIL

NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Rakesh Taori
Application No. 09/725,415
Filed: November 29, 2000
For: **METHOD OF AND SYSTEM FOR CODING AND DECODING SOUND SIGNALS**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed August 26, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed December 11, 2003. A Notice of Abandonment was mailed July 28, 2004.

Petitioner alleges to have timely filed a response to said Office communication on March 4, 2004. In support thereof, Petitioner provided evidence in the way of a copy of the response filed March 4, 2004 which included a certificate of mailing dated March 1, 2004 and a date stamped post card receipt which itemizes the receipt of an amendment on March 4, 2004 (mailing date of March 1, 2004).

A review of the file records reveals that the original amendment filed on March 4, 2004 (mailing date of March 1, 2004) has been located and matched with the file. Therefore, it is concluded that the papers were timely filed in compliance with the requirements of 37 CFR 1.8(a)(1).

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the March 4, 2004 (mailing date of March 1, 2004) response. From there, the file will be forwarded to the examiner for further action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Ted S. Fasca :
Application No. 09/725,467 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. 17787.00 :

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

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed June 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 11, 2004.

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

The application file is being forwarded to Publishing Division.

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. 8

PILLSBURY MADISON & SUTRO LLP
INTELLECTUAL PROPERTY GROUP
NINTH FLOOR
1100 NEW YORK AVENUE, NW.
WASHINGTON, DC 20005-3918

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MAY 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Koike et al. :
Application No. 09/725,496 :
Filed: November 30, 2000 : ON PETITION
Attorney Docket No.: :
PM 275294 FOO-212-US :

This is a response to the Petition to Accept Drawings and to Grant Original Filing Date, filed January 25, 2001, requesting that the above-identified application be accorded a filing date of November 30, 2000, rather than the presently accorded filing date of January 17, 2001. The application was recently forwarded to this Office for consideration of the petition.

The petition is **granted in part and dismissed in part**. The petition to accept drawings is dismissed. The petition to grant original filing date is granted.

The application was filed on November 30, 2000. However, on January 3, 2001, Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), requiring drawings of applicant's invention and stating that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on January 25, 2001, the petition and drawings of Figures 1-4, 5a-5c, and 6-10 were filed. The petition requests the earlier filing date on the basis that the invention consists in making an article of a particular material or composition and that significant details of structure or arrangement are not involved in the article claims. See Manual of Patent Examining Procedure ("MPEP") 601.01(f).

Applicable Law

The MPEP, §601(f), provides that

> [o]ther situations in which drawings are not usually considered necessary for the understanding of the invention under 35 USC 113 (first sentence) are:

> (B) Articles made from a particular material or composition: where the invention consists in making an article of a particular material or composition, unless significant details of structure or arrangement are involved in the article of claims;

Petitioner is correct in that at least one claim is directed to a composition. The application should, therefore, have been treated as an application for which a drawing is not necessary for an understanding of the claimed subject matter.

Petitioner's Options

The MPEP, §601(f), further provides that

> [a] nonprovisional application having at least one claim . . . directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

Section 601.01(g) provides that an application filed without all figures of drawings will be accorded a filing date, however, a Notice of Omitted Items will be mailed indicating that the application lacks some of the figures of drawings described in the specification.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182). See MPEP 601.01(g).

Petitioner has one other option: "An applicant willing to accept the application as deposited in the USPTO need not respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

Conclusion

Since applicants maintain that the drawings are not necessary, the application will be accorded the November 30, 2000 filing date without the drawings of Figures 1 - 4, 5a - 5c, and 6 - 10. The Notice mailed January 3, 2001 is hereby withdrawn.

The **petition is granted** to the extent that the application will be accorded a filing date of November 30, 2000, however, the **petition is dismissed** to the extent that drawings filed with the instant petition will not be accepted.

No petition fee is required. Deposit account number 03-3975, has been credited with the petition fee, $130.00, as per the authorization in the instant petition.

The drawings of Figures 1-4, 5a-5c, and 6-10, filed on January 25, 2001, are not part of the original disclosure of the application and will not be entered.

An amendment canceling the references to Figure 1-4, 5a-5c, and 6-10 in the specification should be filed prior to the first Office action in order to avoid further delays in the prosecution of the application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 30, 2000, and an indication that "0" sheets of drawings were present on filing.

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

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

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575 MADISON AVENUE
NEW YORK NY 10022-2585

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Miyamoto et al.	:	
Application No. 09/725,532	:	ON PETITION
Filed: November 29, 2000	:	
Attorney Docket No. FUJ 17.619 (100794-11510)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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APR 23 2008

OFFICE OF PETITIONS

In re Patent No. 6,589,461 :
Issue Date : July 8, 2003 :
Application No. 09/725,588 : DECISION ON PETITION
Filed: November 29, 2000 :
Patentee(s): Austin C. Hansen :

This is a decision on the petition under 37 CFR 1.182, filed February 23, 2007, to correct the name of the Legal Representative from "Christopher" to "Cris".

The petition is **granted**.

Since A petition under 37 CFR 1.182 requires a petition fee of $400 and the requested Certificate of Correction requires a fee of $100, petitioner's deposit account has been debited a total of $500, as authorized.

This patent file 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) 272-3226. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Hideyuki Hirano et al :
Application No. 09/725,674 :
Filed: November 30, 2000 :
Attorney Docket No. 1405.1029/JDH :

ON PETITION

This is a decision on the petition, filed May 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2137 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents.
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 15

EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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FEB 0 7 2003

OFFICE OF PETITIONS

In re Application of
Yong Cao et al
Application No. 09/725,694
Filed: November 29, 2000
Attorney Docket No. UA0029 US NA

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 23, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of a prior-filed application, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed with the petition on December 23, 2002 and supplemented by facsimile transmission on February 3, 2003.

The petition is **Granted**.

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, unless previously submitted;[1]

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross

(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 application was filed on November 29, 2000 and was pending at the time of filing of the instant petition. Further, the instant nonprovisional application was copending with the prior-filed nonprovisional application, for which a claim for benefit of priority is now being sought. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(i).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application seeks acceptance of a claim for priority under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/073,411. Additionally, nonprovisional Application No. 09/241,656 was filed within twelve months of provisional Application No. 60/073,411, for which priority is now sought under the provisions of 37 CFR 1.78(a)(6). A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

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references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed on November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior applications. In order for the instant application to be entitled to the benefit of the prior applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

This application is being forwarded to Technology Center Art Unit 1774 for processing the amendment filed December 23, 2002 and supplemented by facsimile transmission on February 3, 2003, and for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications.

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

ATTACHMENT: Corrected Filing Receipt

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673 S. WASHINGTON ST.
ALEXANDRIA VA 22314

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Ronald Arthur Frank :
Application No. 09/725,730 : DECISION ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. 10.0756 :

This is in response to the "TRANSMITTAL OF ISSUE FEE AND PUBLICATION FEE WITH CONDITIONAL PETITION TO WITHDRAW ANY HOLDING OF ABANDONMENT," filed November 8, 2005.

On August 13, 2004, the Office mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability, which were returned to the USPTO as undeliverable on August 18, 2004. On November 8, 2005, applicant filed the present petition and paid the issue and publication fees. In essence, applicant asserted that the period running against the application had not begun because the Office had not remailed the Notice of Allowance in compliance with MPEP 707.13. In the alternative, applicant requested that the Office withdraw the holding of abandonment and restart the period for response due to non-receipt of the Notice of Allowance. On November 8, 2005, the Office mailed a Corrected Notice of Allowance and Fee(s) Due and a Notice of Allowability, which restarted the three-month statutory period for response.

In view of the above, the petition is **dismissed** as involving a moot issue. There is **no** indication in the record that the application is abandoned.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,782	11/29/2000	Peter Rohrig	CU-2402 TFP	8684

7590 02/20/2008

Ladas & Parry
224 South Michigan Avenue
Chicago, IL 60604

EXAMINER	
HALE, GLORIA M	
ART UNIT	PAPER NUMBER
3765	
MAIL DATE	DELIVERY MODE
02/20/2008	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Arnold Turk
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

Art Unit 3765

In re Application of :
Roehrig :
Serial No.09/725,782 : DECISION ON PETITION
Filed November 29, 2000 :
For: Pacifier :

In the petition under 37 CFR 1.324 filed December 18, 2007, applicant request that Ernst W. Beranek be added as an inventor of the above named invention. In order for the petition under 37 CFR 1.324 to be granted, the petition must be accompanied with the following:

(a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and
(4) The fee set forth in § 1.20(b).

The petition is dismissed.

Applicant has not provided the requirements identified in sections (b) 1-3 above.

Therefore, since the requirements set forth in 37 CFR 1.324 have not been met by applicants' petition, the petition cannot be granted at this time.

PETITION DISMISSED

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,782	11/29/2000	Peter Rohrig	CU-2402 TFP	8684

7590 03/18/2008

Ladas & Parry
224 South Michigan Avenue
Chicago, IL 60604

EXAMINER	
HALE, GLORIA M	

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
03/18/2008	PAPER

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

The time period for reply, if any, is set in the attached communication.

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Ladas & Parry
224 South Michigan Avenue
Chicago, IL 60604

In re Application of:
Roehrig
Serial No. 09/725,782
Filed: November 29, 2000
Docket: CU-2402 TFP
Title: PACIFIER

DECISION ON PETITION
37 CFR 1.324

In the petition under 37 CFR 1.324 filed December 18, 2007, petitioner requests that Ernst W. Beranek be added as an inventor of the above named invention. In order for the petition under 37 CFR 1.324 to be granted, the petition must be accompanied with the following:

> (a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.
>
> (b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:
>
> (1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
>
> (2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

The petition was dismissed in a decision mailed on February 20, 2008 because petitioner did not provide the requirements identified in sections (b) 1-3 above.

Petitioner contacted USPTO to discuss the decision on the petition and to inform the USPTO that all requirements of 37 CFR 1.3234 were provided. A review of the file wrapper and electronic scanned images confirms petitioner's claim. All requirements of 37 CFR 1.324 are deemed met. In view thereof, the decision mailed on February 20, 2008 is hereby vacated and replaced by the decision herein below.

The petition is granted.

In summary, petitioner has provided the requirements identified in sections (a) and (b) 1-4 above.

Therefore, since the requirements set forth in 37 CFR 1.324 have been met by the petition, the petition is granted.

PETITION GRANTED

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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NOV 15 2002

Paper No. 8

In re Application of
Chun Yuen To
Application No. 09/725,788
Filed: November 29, 2000
Attorney Docket No. WWSM2473

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on November 7, 2002 by which petitioners request an extension of time pursuant to 37 CFR 1.136(b). No fee is required for the petition.

The petition is granted.

A review of the record shows that the underlying patent for which reissue is sought was stated to be involved in litigation proceedings. Therefore, when a first Office action was promulgated on October 18, 2002, a one month shortened statutory period of time was set and petitioner was informed that, in accordance with MPEP § 1442.01, all extensions of time would have to be obtained pursuant to 37 CFR 1.136(b), and not 37 CFR 1.136(a). See paper No. 6.

Petitioner has now requested a two month extension of time so that the period for filing a reply to paper No. 6 would run through January 18, 2003. The basis for the request is that there is no longer pending litigation with respect to the underlying patent.

Petitioner's request is reasonable, and is, accordingly granted. The period for filing a reply to paper No. 6 will extend three months from the date of paper No. 6, so that a timely reply may be filed on or before January 18, 2003. Moreover, further requests for extension of time may be secured pursuant to 37 CFR 1.136(a). Should the underlying patent again become the subject of pending litigation, petitioner is reminded that there is a duty to so inform the examiner.

PETITION GRANTED.

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

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

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700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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OFFICE OF PETITIONS

In re Application of	:	
Sequeira, William J.	:	
Application No. 09/725,792	:	ON PETITION
Filed: November 29, 2000	:	
Attorney Docket No. 600253-031	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 9, 2009, 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), an Amendment & Response under 37 CFR 1.114, and an Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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 $1110.00 extension of time fee submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

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

This matter is being referred to Technology Center AU 2421 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ARI M. BAI
100 SOUTH FOURTH STREET
SUITE 1100
ST. LOUIS, MO 63102

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)
6,744,538	2004-06-01	09/725,811	2000-11-30	30119/01201

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	/Michael J. Marcin/	Date (YYYY-MM-DD)	2008-09-30
Name	Michael J. Marcin	Registration Number	48198

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. 6744538
Issue Date: June 1,2004
Application No. 09725811
Filed: November 30,2000
Attorney Docket No. 022817-00016

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

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

#6
7-8-03

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

MAILED

JUL 09 2003

TECHNOLOGY CENTER 2100

Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of: Win S. CHENG)
Application No. 09/725,839)
Filed: November 30, 2000) **DECISION ON REQUEST FOR**
For: PORTABLE SYSTEM) **WITHDRAWAL AS ATTORNEY**
ARRANGEMENTS HAVING DUAL)
HIGH-LEVEL-/LOW-LEVEL-)
PROCESSOR MODES)

This is a decision on the Request To Withdraw from Representation filed June 23, 2003.

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

The request is **GRANTED**.

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: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

MAIL

JUN 19 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

In re Application of :
POISNER, DAVID I. :
Application No. 09/725,874 :
Filed: November 30, 2000 :
For: ARRANGEMENTS TO VIRTUALIZE ANCILLARY SOUND CONFIGURATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 6, 2003.

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

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

All of the attorneys/agents listed in the Request except for Robert M. Bauer and Hung H. Bui are granted the request for withdraw, since these attorneys do not appear to be of record. Customer Number 20457 is not associated with the file. All other attorneys remain of record. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

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: RICHARD PAGADUAN
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-5-06

TO SPE OF : ART UNIT 2653

SUBJECT : Request for Certificate of Correction on Patent No.: 6938890

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:

_____

_____

_____

_____

_____

_____ 2627
SPE Art Unit

OIPE IAP40 DEC 12 2005 PATENT & TRADEMARK OFFICE

Attorney Docket No. 1293.1156

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Jang-hoon YOO et al.

Application No.: 09/725,879

Confirmation No.: 9729

Filed: November 30, 2000

U.S. Patent No.: 6,938,890

Issued: September 6, 2005

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

For: AN OBJECTIVE LENS FOR HIGH-DENSITY OPTICAL FOCUSING AND AN OPTICAL DISK IN AN OPTICAL PICKUP

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Certificate DEC 15 2005 of Correction

Sir:

Patentee(s) respectfully request(s) that a Certificate of Correction be issued in the subject patent, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, to correct the mistake(s) shown on the attached Form PTO-1050.

Since the mistakes are Patent Office mistakes, it is believed that no fee is required.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 12/12/05

By: _____
Michael D. Stein
Registration No. 37,240

1400 Eye St., N.W.
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510

DEC 16 2005

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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 : 6,938,890

DATED : September 6, 2005

INVENTOR(S) : Jang-hoon YOO et al.

Title Page, Item (56), References Cited, U.S. Patent Documents, insert:
--5,920,532 7/1999 Yagi et al.--.

Column 13, line 4, change "or" to --of--.

MAILING ADDRESS OF SENDER:
STEIN, MCEWEN & BUI, LLP
1400 Eye St., N.W.
Suite 300
Washington, DC 20005

PATENT NO. 6,938,890

No. of add'l copies
@ 50¢ per page

DEC 16 2005

OIPE JAN 13 2005 PATENT & TRADEMARK OFFICE

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/725,897
Filing Date	November 30, 2000
First Named Inventor	Mindy D. Goldsborough
Art Unit	1634
Examiner Name	B. L. Sisson
Attorney Docket Number	55672(45858)

Total Number of Pages in This Submission

ENCLOSURES (*Check all that apply*)

- [x] Fee Transmittal Form
- [ ] Fee Attached
- [x] Amendment/Reply (22 pgs)
- [X] After Final
- [ ] Affidavits/declaration(s)
- [X] Extension of Time Request
- [ ] Express Abandonment Request
- [x] Information Disclosure Statement (2 pgs)
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
- [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please Identify below):

Petition for Extension of Time (1 pg); Notice of Appeal (1 pg.); Third Substitute Specification (marked) (108 pgs); Third Substitute Specification (unmarked) (92 pgs); Statement of Sepcification (2 pg); Form PTO-1449 (1 pg); (9 references); Copy of Sequence lising (30 April 2004) (4 pgs); Copy of Grant of Petition (1 pg); Copy of Withdrawal of Previously Sent Notice (1 pg); Copy of Official Filing Receipt (2 pgs); and Return Receipt Postcard.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	EDWARDS & ANGELL, LLP		
Signature	Kathryn A. Piffat Ph.D.		
Printed name	Kathryn A. Piffat, Ph.D.		
Date	January 13, 2005	Reg. No.	34,901

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 517 916 205 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 13, 2005 Signature: _____ (Sharon Bizokas)

OIPE JAN 13 2005 PATENT & TRADEMARK OFFICE

PTO/SB/17 (12-04v2)
Approved for use through 7/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 1030.00

Complete if Known	
Application Number	09/725,897
Filing Date	November 30, 2000
First Named Inventor	Mindy D. Goldsborough
Examiner Name	B. L. Sisson
Art Unit	1634
Attorney Docket No.	55672(45858)

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 04-1105 Deposit Account Name: Edwards & Angell, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	**Fee ($)**	**Small Entity Fee ($)**	**Fee ($)**	**Small Entity Fee ($)**	**Fee ($)**	**Small Entity Fee ($)**	**Fees Paid ($)**
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	**Fee ($)**	**Small Entity Fee ($)**
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		**Extra Claims**	**Fee ($)**	**Fee Paid ($)**
_____	- =	_____	x _____	= _____

Multiple Dependent Claims

Fee ($)	**Fee Paid ($)**

Indep. Claims		**Extra Claims**	**Fee ($)**	**Fee Paid ($)**
_____	- =	_____	x _____	= _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		**Extra Sheets**		**Number of each additional 50 or fraction thereof**	**Fee ($)**	**Fee Paid ($)**
_____	- 100 =	_____	/50	_____ (round **up** to a whole number)	x _____	= _____

4. OTHER FEE(S) **Fees Paid ($)**

Non-English Specification, $130 fee (no small entity discount)

Other (e.g., late filing surcharge):	1806 Submission of an Information Disclosure Statement	180.00
	1401 Notice of Appeal	400.00
	1252 Petition for Extension of Time (2 months)	450.00

SUBMITTED BY					
Signature	Kathryn A. Piffat, Ph.D.	Registration No. (Attorney/Agent)	34,901	Telephone	(617) 439-4444
Name (Print/Type)	Kathryn A. Piffat, Ph.D.			Date	January 13, 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 517 916 205 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 13, 2005 Signature: _____ (Sharon Bizokas)

164 FAP 55672P (45858)

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AUG 2 3 2001
EDWARDS & ANGELL LLP
DIKE BRONSTEIN
ROBERTS CUSHMAN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC107
JAN 1 3 2005
PATENT & TRADEMARK OFFICE

Paper No. 6

STERNE KESSLER GOLDSTEIN & FO
1100 NEW YORK AVENUE NW
SUITE 600
WASHINGTON, DC 20005-3934

6 2001

COPY MAILED
8/16
8/16 RWE
AUG 2 2001
OFFICE OF PETITIONS
A/C PATENTS

RWE
BJD

In re Application of
Mindy D. Goldsborough et al.
Application No. 60/175,307
Filed: January 10, 2000
Attorney Docket No. 0942.4610003/
RWE/BJD

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2000, to revive the above-identified application. The petition is more properly a petition under 37 CFR 1.137(g) and has been so treated.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Incomplete Provisional Application under 37 CFR 1.53(c) (Notice) mailed February 14, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became terminated on April 15, 2000.

Subject to the provisions of 35 U.S.C. 19(e)(3) and §1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

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

The application file is being forwarded to Initial Patent Examination Division.

Wan Laymon

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

COPY

JAN 13 2005
PATENT & TRADEMARK OFFICE

COPY

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
60/175,307	01/10/2000		150	0942.4610003	4		

CONFIRMATION NO. 1438

STERNE KEESLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE NW
SUITE 600
WASHINGTON, DC 200053934

RECEIVED
SEP 28 2004
STERNE, KESSLER,
GOLDSTEIN & FOX P.L.L.C.

FILING RECEIPT

OC000000013809262

Date Mailed: 09/15/2004

Receipt is acknowledged of this provisional Patent Application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Mindy D. Goldsborough, Gaithersburg, MD;
Donna K. Fox, Sykesville, MD;

Power of Attorney:

Brian Del Buono--42473

If Required, Foreign Filing License Granted: 02/11/2000

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

US60/175,307

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

Non-Publication Request: No

Early Publication Request: No

Title

METHODS FOR THE STORAGE AND SYNTHESIS OF NUCLEIC ACIDS

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

COPY

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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	ATTY. DOCKET NO./TITLE
60/175,307	01/10/2000	Mindy D. Goldsborough	0942.4610003

CONFIRMATION NO. 1438

STERNE KEESLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE NW
SUITE 600
WASHINGTON, DC 200053934

OIPE JC107
JAN 13 2005
PATENT & TRADEMARK

WITHDRAWAL NOTICE

OC000000013808923

Date Mailed: 09/15/2004

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

It has come to the attention of the Office that the Notice on 02/14/2000 was sent in error. Please disregard that Notice. The application is complete and will be processed for examination. The Official Filing Receipt is enclosed. We apologize for any inconvenience this has caused.

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SEP 28 2004
STERNE, KESSLER,
GOLDSTEIN & FOX P.L.L.C.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

COPY

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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#10

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

MAILED

MAR 28 2003

Office of the Director
Group 3600

In re application of
Kyu Don Kim et al.
Application No. 09/725,933 :
Filed: November 30, 2000 :
For: SYSTEM AND METHOD FOR AUTOMATING :
A PROCESS OF BUSINESS DECISION
AND WORKFLOW

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on March 6, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A), 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, since this office does not recognize law firms.

As to condition B), given the statements included in the request that the firm "is closing down the patent prosecution practice and all patent practitioners are leaving" and "the firm will no longer be handling any patent prosecution work"; it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Simply because the law firm will no longer be handling any patent prosecution work, that does not automatically meet one of the acceptable reasons for an attorney withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 3/26/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Kyu Dong Kim	: DECISION ON REQUEST FOR
Patent Number	: 7653566	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/725,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1398** 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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ROTHWELL FIGG ERNST & MANBECK PC
1425 K STREET, NW, SUITE 800
WASHINGTON DC 20005

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Linda J. Harris et al	:	
Application No. 09/725,957	:	NOTICE
Filed: November 30, 2000	:	
Attorney Docket No. 2315-115	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at 703-305-8680.

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

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

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Fredenburgh et al.	:	
Application No. 09/726,032	:	ON PETITION
Filed: November 30, 2000	:	
Attorney Docket No. 03266.000100	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 19, 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 September 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 25, 2003. A Notice of Abandonment was mailed May 18, 2004.

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

On September 23, 2004, the assignee of the above-identified application revoked the petitioner's power of attorney. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

This matter is now being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

cc: JOHN C. JEFFREY
13 RICHMOND STREET WEST
SUITE 301
TORONTO, ON M5H 2L7
CANADA

Paper No. 21

Endale G. Haile-mariam
2712 Henderson Avenue
Wheaton, MD 20902

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Endale G. Haile-mariam
Application No. 09/726,041
Filed: November 30, 2000
Title: DESKTOP PROJECTION MONITOR

DECISION ON PETITION

This is a decision on the petition filed on August 14, 2002, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed December 4, 2001. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time to reply under the provisions of 37 C.F.R. §1.136(a) were obtained. No reply having been received, the application became abandoned on March 5, 2002. A Notice of Abandonment was mailed on July 3, 2002.

With the instant petition, petitioner filed a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, including a submission and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). Petitioner has met all other requirements for a grantable petition under 37 C.F.R. §1.137(b).

The application file is being forwarded to Technology Center 2851 for consideration of the submission under §1.114, an amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 16

FEE 15

Larson & Taylor, PLC
1199 North Fairfax Street, Suite 900
Alexandria, VA 22314

In re Application of:
Endale G. Haile-mariam
Application No. 09/726,041
Filed: November 30, 2000
Attorney Docket No. PO7272US02/MP

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 January 3, 2002, and supplemented on 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 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 Marvin Petry on behalf of the other attorneys 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 December 4, 2001. 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 Endale G. Haile-mariam 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: Endale G. Haile-mariam
2712 Henderson Avenue
Wheaton, MD 20902

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,041	11/30/2000	Endale G. Haile-mariam	HMR-201	8700

7590 12/03/2002

Endale G. Haile-mariam
2712 Henderson Avenue
Wheaton, MD 20902

EXAMINER
BROWN, KHALED

ART UNIT	PAPER NUMBER
2851	

DATE MAILED: 12/03/2002

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

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

In re Application of

Serial No.: 09/726041
Filing Date: 11-30-00

DECISION
VACATING
NOTICE OF ABANDONMENT

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

The Notice of Abandonment mailed 7/3/02 is **VACATED.**

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

Group 2800, Tech. Support

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TERRIL G. LEWIS
HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057-2198

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Alan D. Kersey et al
Application No. 09/726,059
Filed: November 29, 2000
Attorney Docket No. WEAF---/LWT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 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 April 23, 2003, 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 August 24, 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.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on November 14, 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 AU 2882 for further processing.

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

cc:

William B. Patterson
Moser, Patterson & Sheridan, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056

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Paper No. 7

HARRY G. WEISSENBERGER
4 VENTURE, SUITE 300
IRVINE, CA 92618-7384

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of :
David L. Caulfield :
Application No. 09/726,063 : DECISION GRANTING PETITION
Filed: November 29, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5485.01P :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 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 nonfinal Office action mailed April 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2004. A Notice of Abandonment was mailed on October 29, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $685; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 21, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 3623 for appropriate action on the concurrently filed amendment.

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

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ROBERT E.MUIR, ESQ.
HUSCH & EPPENBERGER, LLC
SUITE 1400
401 MAIN STREET
PEORIA IL 61602-1241

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of
Peter Gansen et al
Application No. 09/726,075
Filed: November 29, 2000
Attorney Docket No. 64251-006

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 April 11, 2006.

The petition is **APPROVED**.

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

The request was signed by Robert C. Haldiman on behalf of all the attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is **no** attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address of the first signing inventor indicated below.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

This application is being referred to Technology Center AU 1711 for the mailing of the Final Rejection of September 8, 2006.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
PETER GANSEN
AM STEINBERG 49
D-37136, SEEBURG, GERMANY

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MR. WILLIAM FRITZ
NEOMEDIA TECHNOLOGIES, INC.
2201 SECOND STREET
SUITE 600
FORT MYERS FL 33901

MAIL

MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: DURST et al.
Application No. 09/726,086
Attorney Docket No. 150-058RP
Filed: November 29, 2000
For: SYSTEM AND METHOD FOR LINKING ONLINE RESOURCES TO PRINT MEDIA AND AUTHORING TOOL FOR SAME

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

This is a decision on the petition, filed November 22, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application under 37 CFR 1.181; however, the petition has been treated as a petition under 37 CFR §1.8, which is more appropriate for this type of petition.

The Petition is **DISMISSED**.

The application was abandoned for failure to file a timely response to the Non-Final Office Action mailed January 30, 2004. Notice of Abandonment was mailed October 5, 2004.

In support of the petition, Petitioner provides a copy of a third party receipt of transmission of a facsimile showing that a 9-page fax (identified in the heading as an amendment) was transmitted to fax id #7033053719.

1) a 2-page Transmittal Form dated July 02, 2004, showing extension of time request and fee paid
2) a 4-page Petition to Withdraw the Holding of Abandonment
3) a 2-page Transmittal Form dated August 02, 2004, showing extension of time request and fee paid
4) a 7-page Copy of the Amendment with Remarks, stamped November 22, 2004
5) a 1-page transmittal letter dated November 18,2004 and stamped November 22, 2004
6) a 1-page copy of a third party receipt of transmission

37 C.F.R. § 1.8(b) states:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Petitioner has not complied with item b2 or b3 above. Item b2 requires that an additional copy of the previously mailed or transmitted correspondence **and certificate** is supplied. The petitioner provides a reference to a transmittal form to indicate that a two-month extension of time was received by the office on July 02, 2004 and that an extra one-month extension was received on August 02, 2004. However, the petitioner does not provide a certificate or transmittal to indicate that the **amendment** was filed in response to the office action dated January 30, 2004. Furthermore, item b3 indicates that a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission, or a copy of the **sending unit's report confirming transmission** should be provided for facsimile transmissions. The Petitioner merely provided a copy of an email from a third party rather than an "Auto-Reply" for the USPTO, as required.

Petitioner has not established that a response to the office action dated January 30, 2004 has been timely filed. Therefore, although the extension of time petitions/transmittals filed on July 02, 2004 and August 02, 2004, respectively, may be considered timely, neither response references an amendment and therefore, the copy of the amendment filed with the petition is untimely.

Accordingly, the petition is **DISMISSED.**

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

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

5/3/05

JC

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael J. Berger
Amster, Rothstein & Ebenstein
90 Park Avenue
New York NY 10016

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AUG 1 2 2002

OFFICE OF PETITIONS

Applicant: Armstrong et al.
Appl. No.: 09/726,136
Filing Date: November 29, 2000
Title: METHOD AND SYSTEM FOR COMMUNICATING WITH AND TRACKING RFID TRANSPONDERS
Attorney Docket No.: 46506/43
Pub. No.: US 2002/0063622 A1
Pub. Date: May 30, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 24, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MAIL

OCT 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Michael J. Berger
Amster, Rothstein & Ebenstein
90 Park Avenue
New York NY 10016

In re Application of:	:	DECISION
John T. Armstrong, et al.	:	SUA SPONTE
Application Serial No.: 09/726,136	:	WITHDRAWING
Filed: November 29, 2000	:	HOLDING OF
For: **METHOD AND SYSTEM FOR COMMUNICATING WITH AND TRACKING RFID TRANSPONDERS**	:	ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed on March 24, 2005 setting a three (3) month shortened statutory period for response. In the apparent absence of a timely filed response, the application was considered abandoned. A Notice of Abandonment was mailed October 5, 2005.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of abandonment is withdrawn and the application restored to pending status. A review of the file record finds that the original response and amendment with a three month extension of time and necessary extension of time fees and claim fees filed on September 29, 2005 have been located and matched with the file.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. Any inconvenience caused petitioner is regretted.

The response has been entered and processed. The file will be forwarded to the examiner for appropriate consideration in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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AUG 4 2003

#22

DAVID W. CLOUGH, PH.D.
KATTEN MUCHIN ZAVIS
525 WEST MONROE
SUITE-1600
CHICAGO IL 60661-3693

In re Application of :
John McCafferty et al :
Serial No.: 09/726,219 : PETITION DECISION
Filed: November 28, 2000 :
Attorney Docket No.: 213839-00013 :

This is a response to the petition under 37 CFR 1.59(b), filed May 8, 2003, to expunge information from the above identified application. The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that documents submitted as a Proprietary Information Disclosure Statement under a court Protective Order be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid. It is noted that applicants identify three specific documents contained in the envelope as material to be returned. However, the envelope contains four additional documents whose return is not specifically requested. Thus it is not completely clear whether only three documents are to be returned or all seven. A renewed petition at the close of prosecution should clarify this inconsistency.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified documents are considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant upon close of prosecution. See, in general, M.P.E.P. 724.02.

The petition is at this time **DISMISSED** subject to submission of a renewed petition at the time of allowance or abandonment of the application. No additional petition fee will be required for the renewed petition.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 9 2004

CHIRON CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
PO BOX 8097
EMERYVILLE CA 94662

In re Application of	:	
John McCafferty et al	:	
Serial No.: 09/726,219	:	PETITION DECISION
Filed: November 28, 2000	:	
Attorney Docket No.: 213839-00013	:	

This is a response to the renewed petition under 37 CFR 1.59(b), filed December 22, 2003, to expunge information from the above identified application. The application has now been allowed.

Petitioner requests that certain documents submitted as part of an Information Disclosure Statement are proprietary and constitute a Proprietary Information Disclosure. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid. In applicants' previous petition it was unclear as to which specific documents contained in the IDS were proprietary material to be returned. The application has now been allowed and the documents found not to affect the determination of patentability.

The petition is **GRANTED.** The expunged documents are returned herewith.

Should there be any questions with respect to this decision, please contact 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 facsimile transmission at 703872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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Paper No. 21

MAIL

JUL - 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NIXON & VANDERHYE, P.C.
1100 N. GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201

In re Application of :
Mark Leather, et al. :
Application No. 09/726,226 : DECISION ON PETITION
Filed: November 28, 2000 :
For: METHOD AND APPARATUS FOR ANTI-ALIASING IN A GRAPHICS SYSTEM :

This is a decision on the request filed December 9, 2003, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond to the Office Communication mailed on March 13, 2003, which set a shortened statutory period of THREE MONTHS for applicant to respond. A Notice of Abandonment was mailed on October 21, 2003.

Petitioner alleges to have timely filed a proper response to the Non-final Office Action on September 15, 2003 by facsimile transmission (the next business day is September 15, 2003 since September 13 falls on a Saturday). In support, petitioner has provided as evidence, a copy of the response to the Non-final Office Action, which included a Certificate of Facsimile Transmission to the Office with a transmission date of September 15, 2003. The Certificate of Facsimile Transmission was signed by the Practitioner, who is also the instant Petitioner.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. [emphasis added]

Also attached to the petition is a copy of the USPTO's Auto-Reply Facsimile Transmission receipt which indicates a "fax Information Date Received" of "9/16/03 12:02 AM [Eastern

Daylight Time]" – two minutes after midnight on 9/16/03. However, MPEP 502.01 states that "if the Certificate of Transmission is available, then the facsimile correspondence may be considered timely filed on that day if it contains a Certificate of Transmission and is in compliance with 37 CFR 1.8(a)(1)(i)(B) and (ii)" [emphasize added]. Since the response to the Non-final Office Action included a Certificate of Facsimile Transmission to the Office with a transmission date of September 15, 2003, the response is considered timely.

Accordingly, Petitioner has complied with the requirements of 37 C.F.R. §1.8(a) above. The petition is **GRANTED**.

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

The application file is being forwarded to the technical support staff for entry of the amendment which accompanied the petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

DAVIDSON, DAVIDSON & KAPPEL, LLC
14th Floor
485 Seventh Avenue
New York NY 10018

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Cote, et al. :
Application No. 09/726,240 : DECISION ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. 600.1113

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed January 21, 2003.

The petition is **granted**.

This application was held abandoned on September 19, 2002, because it was believed that no timely response was received to the non-final Office action, mailed June 19, 2002, which set an extendable shortened statutory period for reply of three months. Petitioner was advised of the above-cited application's abandonment by a Notice of Abandonment mailed December 20, 2002.

Petitioner maintains that the responsive amendment was timely filed and provided an Office date-stamped postcard showing the amendment as having been received on September 9, 2002. Based on the facts as stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed. The holding of abandonment is, therefore, withdrawn as of the mailing date of this decision.

The amendment and drawings first filed September 9, 2002 and again on January 21, 2003, is noted and made of record.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

09/726,258

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	13

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted the petition to accept color drawings under 37 CFR 1.84(a) filed 11/29/00 is hereby granted.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Christina Chan
CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Heller Ehrman LLP
275 Middlefield Road
Menlo Park CA 94025-3506

COPY MAILED

NOV 15 2005

OFFICE OF PETITIONS

In re Application of :
Hsei et al. :
Application No. 09/726,258 : DECISION GRANTING PTA REQUEST
Filed: September 29, 2000 :
Attorney Docket No. 39766-0093 C1 :

This decision by the Office is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed on February 3, 2005 requesting that the Office review the PTA and determine whether the actual PTA is zero (0) days rather than the disclosed forty-seven (47) days.

Applicants request for reconsideration for PTA is **Granted.** The proper amount of PTA at the time of the mailing of the notice of allowance is ZERO (0) days.[1] The Office will adjust the PAIR calculation to reflect a value of zero days at the time of the mailing of the notice of allowance.

The applicants assert that the Office erred in providing applicants 115 days of PTA for the mailing of the non-final on September 17, 2004. The applicants assert that the period should have been measured from the date of the filing of the RCE rather than the date of the filing of the notice of appeal. Accordingly, applicants assert that overall the proper calculation is zero (0) days.

Applicants arguments are correct. The Office erred in the awarding of 115 days of delay by the Office for the Office's mailing of a non-final rejection on March 17, 2004. The Office notes that on December 22, 2004, applicants submitted an RCE application. The Office had four months from the date of the submission of the RCE to respond to the RCE without granting additional PTA. The Office did respond within the four month requirement and accordingly did meet the requirement under 37 CFR 1.702(a)(2). The Office notes that a 50 day Office delay in acting within the 14 month requirement under 37 CFR 1.702(a)(1). However, the fifty (50) day Office delay was reduced by the ninety (90) days applicant delay for the response filed on December 30, 2002. Accordingly, at the time of the mailing of the notice of allowance the proper determination

[1]Applicants errantly cited that the determination was in the issue notification letter. The Office notes that the determination was provide in the notice of allowance because the determination for the issue notification letter is mailed after the establishment of an issue date. This application at the time of the filing of this decision has not established an issue date.

is zero (50-90=0).[2]

The Office notes that applicants also bring to the Office's attention the fact that a terminal disclaimer has been filed. The Office will continue to determine the PTA days even if a terminal disclaimer has been filed but the Office provide notice of the front of the patent that the amount of PTA is subject to the submission of a terminal disclaimer.

After the mailing of this decision, the application is being forwarded to the Office of Patent Publication for prompt issuance of the patent. The Office further notes that any delays beyond four months of the payment of the issue fee and all other requirements being satisfied will be provided in the issue notification letter which advises applicants of the date of issuance of the patent.

The Office notes that no fees will be assessed for the submission of the request for reconsideration of PTA. The Office thanks applicants for their good faith and candor in bringing the discrepancy to the attention of the Office.

Any questions concerning this decision should be directed to Kery 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: adjusted PAIR calculation

---

[2]The Office wants to advise applicants that in order for applicants to receive a final positive PTA determination, the Office must have further delayed by a period of more than 40 days since applicants delay was 40 days greater than Office delay at the time of the mailing of the notice of allowance.

SPE K. Williams

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/726,265

Paper No.: _____

DATE : 6/21/05

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction on Patent No.: 6891635

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.

BEST AVAILABLE COPY

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Approved
SE

Kimberly A. Williams — **SPE**

2626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Rabindranath Dutta :
Application No. 09/726,269 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No.: AUS920000774US1

This is a decision on the petition filed January 9, 2006 to withdraw the holding of abandonment, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

Petitioner argues that the Final Office Action mailed June 2, 2005 was not received by the inventor and provides a statement from an individual responsible for handling incoming mail and docketing, as well as a copy of a Case History Report from petitioner's Case Tracking System as proof.

A review of the record indicates however that the Final Office Action was mailed to the correspondence address of record at the time of mailing but that a revocation and power of attorney was filed December 21, 2005, subsequent to the mailing of the Office Action.

As the revocation and power of attorney is dated after the mailing of the Office Action, petitioner's have not shown that the address of record at the time of mailing was not the proper address of record or, that the USPTO mailed the Office Action to the wrong address.

In view thereof, the Office Action was mailed June 2, 2005, to the proper address and this application was properly held abandoned on September 6, 2005, for failure to file a timely reply to the Final Office Action. Accordingly, the Notice of Abandonment mailed December 15, 2005 was appropriate and will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

---

[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)).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

COUNSEL CODE 00L
NAVAL MEDICAL RESEARCH CENTER
503 ROBERT GRANT AVE
SILVER SPRING, MD 20910-7500

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OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Johnny Dale Callahan et al :
Application No. 09/726,345 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. NC 82,197 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 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 10, 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 11, 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

- UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

JAN 1 8 2005

CHIEF EXECUTIVE OFFICER
Brad Gates
3737 Birch Street
E-Trak Corporation
Newport Beach, CA 92660

MAILED

JAN 1 8 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Sushil K. Garg
Application No. 09/726,374
Filed: November 30, 2000
For: TOW MANAGEMENT SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 28, 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 the above-identified application is not approved as moot because the attorney making the request; Larry B. Donovan, does not now have, and apparently never has had, power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

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

SNM/pav: 01/11/05

CC: Larry B. Donovan
1150 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 28, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/726404 Patent No.: 7315387 B2

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.

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

Comments: Please use the COCIN document that arrived 7/14/08 to correct this case. Thanks.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Edward L . Coles/ SPE 2625

E

Art Unit

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

Paper 5

RADER, FISHMAN & GRAUER
1233 20TH STREET, NW, SUITE 501
WASHINGTON, DC 20036

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JUL 5 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Reissue Application of Patent No. 6,041,031 :
Original Patent issue date: March 21, 2000 : DECISION GRANTING
Reissue Application No. 09/726,436 : PETITION
Filed: December 1, 2000 :
Attorney Docket No. SON-1212/RE :

This is a decision on the petition, filed on February 20, 2001, in effect requesting that an undated Notice Of Missing Parts ("Notice"), for the above-identified reissue application, be partially withdrawn to the extent that it refers to assignee consent and statement under 37 CFR 3.73(b), and that the application be accorded a filing date of December 1, 2000.

The petition is GRANTED.

The reissue application was filed on December 1, 2000. On January 25, 2001, a filing receipt was mailed by the Initial Patent Examination Division of the Office (OIPE), acknowledging receipt of the application papers filed on December 1, 2000, and according that filing date to this application.[1] However, OIPE subsequently mailed the undated Notice, stating that the application was missing the assignee's signed consent, assignee's signed statement under 37 CFR 3.73(b), and a reissue specification in double column format pursuant to 37 CFR 1.173(a)(1).

In response, the present petition is filed. Petitioners argue that the assignee's signed consent and statement under 37 CFR 3.73(b) were submitted with the remainder of the application on December 1, 2000.[2]

The assignee's consent to the reissue application, and the assignee's statement under 37 CFR 3.73(b), both signed, have been located in the Office file. The Office also acknowledges receipt of a reissue specification, in double column format, with the present petition.

In view of the above, the Notice was sent in error in as much as it refers to missing or unsigned

---

[1] See MPEP 503 (Rev. 1, Feb. 2000): "The OIPE mails a filing receipt . . .for each application filed which meets the minimum requirements to receive a filing date . . .".

[2] The assignment to Sony Corporation of the rights to the original patent application (08/994,455), and thus the subsequently-issued patent (6,041,031), was recorded in the Office on 5/18/98.

assignee consent and statement under 37 CFR 3.73(b). The petition is thus granted.

The undated Notice is hereby partially withdrawn to the extent that it refers to assignee consent and statement under 37 CFR 3.73(b).

While the Notice remains valid with respect to the non-conforming reissue specification,[3] the present petition would not have been necessitated if the specification format were the only outstanding issue when the application was initially filed on December 1, 2000.[4] Accordingly, a petition fee is not required and will not be charged to Petitioner's deposit account.

The reissue application is being returned to OIPE for further processing with a filing date of December 1, 2000.

The Office acknowledges receipt of the Preliminary Amendment filed with the present petition.

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

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[3] The entire reissue specification, including claims, must be furnished in double column format. See 37 CFR 1.173(a)(1) (Revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000).

[4] The present petition only disputes the appropriateness of the Notice as it pertains to assignee consent and statement under 37 CFR 3.73(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

VENABLE
POST OFFICE BOX 34385
WASHINGTON, DC 20043-9998

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JUL 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Yoshimi Hirahara :
Application No. 09/726,451 : DECISION ACCORDING STATUS
Filed: December 1, 2000 : UNDER 37 C.F.R. §1.47(b)
Title: RADIO COMMUNICATION SYSTEM :
Attorney Docket No. 32014-167949 :

This is in response to the petition under 37 C.F.R. 1.47(b), filed March 2, 2001.

The petition under 37 C.F.R. 1.47(b) is **GRANTED**.

The above-identified application was filed on December 1, 2000, without an executed oath or declaration, missing the statutory basic filing fee, and with additional claim fees due. Yoshimi Hirahara was named as sole inventor. Accordingly, on January 2, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for late filing, and payment of the filing and claim fees. This Notice set a two month period for reply.

Applicant timely filed the instant petition (and petition fee), and the fees due under the Notice. Rule 47 applicant maintains that status under 37 C.F.R. §1.47(b) is proper because sole inventor Yoshimi Hirahara cannot be found or reached after diligent effort.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of a person with first hand knowledge, demonstrated that applicant had made a diligent effort to locate the non-signing inventor and present him with a copy of the application papers for signature. Applicant submitted a declaration for patent application signed by Tomoo Araki and noting that he is an Officer of the assignee corporation. This declaration has been reviewed and is found in compliance with §§1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Applicant submitted with the petition a copy of an invention report in Japanese (with concise English translation) to establish that the invention has been assigned to the applicant corporation, signed by sole inventor Hirahara. The agreement establishes the applicant's proprietary interest in the application. Finally, applicant declares that the filing of the application without the inventor's signature is necessary to

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

preserve the rights of the parties and to prevent irreparable damage, given that a claim for priority under 35 USC 119 was med based on an application filed in Japan on December 3, 1999.

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

As provided in new 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 processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOSHIMI HIRAHARA
1-4-16-202 OKUBO
NARASHINO-SHI,
CHIBA 275-0011, JAPAN

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JUL 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Yoshimi Hirahara :
Application No. 09/726,451 :
Filed: December 1, 2000 :
Title: RADIO COMMUNICATION SYSTEM :

Dear Mr. Hirahara:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. 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).

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

VENABLE
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BACON & THOMAS, PLLC
625 SLATERS LANE, 4th FLOOR
ALEXANDRIA, VA 22314-1176

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 09/726,538 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. KIMK3005beu :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed June 24, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 25, 2004. A Notice of Abandonment was mailed January 31, 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 2600 for further examination on the merits.

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

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

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MAY 31 2006

Technology Center 2100

Arent Fox PLLC
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036-5339

In re Application of: Nonaka, et al.
Application No. 09/726,564
Attorney Docket No. P107156-00031
Filed: December 01, 2000
For: METHOD AND SYSTEM FOR RECORDING AND REPRODUCING INFORMATION DATA

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

This is a decision on the petition filed January 13, 2005, to withdraw the holding of abandonment of the above-identified application, under 37 C.F.R. §1.181.

The instant application was indicated to be abandoned for failure to properly respond to the Office action (Non-final Rejection) mailed April 21, 2004. A Notice of Abandonment was mailed on December 14, 2004.

The Petition is **DISMISSED**.

Recent Prosecution History

On April 21, 2004, a Non-Final Office action was mailed, setting forth a three-month shortened statutory period for response.

On December 14, 2004, a Notice of Abandonment was mailed.

On January 13, 2005, the instant petition was filed, along with a notification of change of address.

On February 03, 2006, a request for reconstruction and status letter were filed.

Relief Requested

The instant petition requests the following relief: withdrawal of the holding of abandonment and remailing of a new non-final Office action.

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. ***Note, 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.***

The petition filed on January 13, 2005 includes elements (1) and (2). No fee under 37 C.F.R. §1.181 is required for this petition.

Basis of Opinion

37 CFR §1.134 Time period for reply to an Office action.
An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. ***Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.***

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 Director in such action, ***the application shall be regarded as abandoned by the parties thereto, unless it is shown to the satisfaction of the Director that such delay was unavoidable.***

37 C.F.R. §1.135 Abandonment for failure to reply within time period.
(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 ...., the application will become abandoned unless an Office action indicates otherwise.
(b) ***Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require.*** The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

403 [R-3] Correspondence — With Whom Held
I. >< CUSTOMER NUMBER PRACTICE
Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.
The following forms are suggested for use with the Customer Number practice:
(C) the "Change of Correspondence Address, Application " (PTO /SB /122) to change the correspondence address of an individual application to the address associated with a Customer Number.

The Office will also accept requests submitted electronically via a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number>.<** Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer

Numbers") to Matters Involving Pending Patent Applications," published in the Federal Register at 61 FR 54622, 54623-24 (October 21, 1996), and in the Official Gazette at 1191 O. G. 187, 188-89 (October 29, 1996). >**Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the Official Gazette at 1272 O.G. 24 (July 1, 2003).**<

711.03(c) [R-3] Petitions Relating to Abandonment
The following do not constitute proper notification of a change in correspondence address:
(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403).

Analysis

In support to the petition filed on January 13, 2005, Petitioner provides the following evidence: a statement that the Office action mailed April 21, 2004 was not received; a copy of the notice of customer number record change mailed January 31, 2001; an email (dated May 22, 2001) regarding an error report for customer number 04372; and a spreadsheet listing all Serial Numbers associated with the error report.

In order to clarify the prosecution record, a brief analysis will be proffered. Prior to the mailing of a Non-final Office action (mailed April 21, 2004), Applicant indicates that a previously submitted email request (on or about May 22, 2001) batch or spreadsheet listing of applications with a requested change of address associated with customer number 04372, should have been entered and the file updated to reflect such changes. Therefore, the mailing of the Non-final Office action to the former address of record i.e. NIKAIDO, MARMELSTEIN, MURRAY & ORAM LLP, Metropolitan Square, G Street Lobby – Suite 330, 655 Fifteenth Street, N.W., Washington, DC 20005-5701, was in error as supported by the evidence provided with the instant petition.

Irregardless, had the batch or spreadsheet list of applications emailed with the requested change of correspondence address been received prior to the mailing of the Non-final action rejection, in accordance with the citations above, such request would have been deemed improper. The Office does <did> not accept change in correspondence address emailed or filed *in paper form* listing plural applications associated with a customer number, as shown in the evidence provided with the instant petition (see MPEP 403 and 711.03(c)). Note, the Office had accepted requests ***submitted electronically via a computer-readable diskette*** to change the correspondence address of a list of applications or patents but that such requests are no longer accepted (1272 O.G. 24 (July 1, 2003)). Therefore, even though the email may have been received, the correspondence address would not have been changed in accordance with the request emailed on or about May 22, 2001. Note, the notice of customer number record change (dated January 31, 2001) filed as evidence with the instant petition, lacks identification to the instant application Serial Number (i.e. 09/726,564), therefore does not serve as evidence in support of the instant application. Further, there is no record of the mailing of a notice of customer number change in the prosecution record of the instant application.

In further accordance with MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

> *1) a statement from practitioner that the Office action was not received;*
> ***2) a statement from practitioner that the file jacket and docket records were searched;***
> ***3) a copy of the docket record at the address of record; and***
> ***4) a reference to the docket record in the practitioner's statement.***
> [Emphasis added.]

The petition fails to fully comply with requirements 2-4 set forth above. The evidence submitted has not overcome the presumption of receipt.

The copy of the docket record where the non-received Office communication would have been entered had it been received and docketed, must be attached to ***and*** referenced in practitioner's statement. The docket record identified above is also required to be a docket record showing all actions due by the entire firm at and around the due date for response, not counting any possible extensions of time. ***The attorney must also have been at the address of record at the time the action was mailed or have filed a (proper and) timely Change of Correspondence address.***

Decision

The statutory time period for reply under 37 CFR §1.134 (sixth months from the mailing of the Non-final Office action rejection) expired on October 21, 2004, prior to the mailing of the Notice of Abandonment on December 14, 2004, and since no response to the Office action of April 21, 2004 has been received, the holding of abandonment is maintained and deemed to be proper in accordance with 35 U.S.C. 133 and 37 CFR §1.135.

Accordingly, the Non-final Office action was in fact mailed to the correct *address of record* and since Petitioner has failed to meet the requirements under MPEP 711.03(c) to establish nonreceipt, the petition to withdraw the holding of abandonment is **DISMISSED.**

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Alternately, Applicant may wish to file 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 reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in §1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

The showing of requirements can be met by submission of a statement of facts 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 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 Director 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 required items, including appropriate fee, should be promptly submitted under a cover letter entitled "Petition to Revive under 37 CFR §1.137(a) or (b)", as deemed appropriate.

Telephone inquiries should be directed to the undersigned on (571) 272-3595.

Brian Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

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JUL 19 2006

Technology Center 2100

George Oram
Arent Fox PLLC
1050 Connecticut Ave., N.W.
Suite 400
Washington, DC 20036

In re Application of: Nonaka et al.	)
Application No. 09/726,564	) DECISION ON PETITION TO
Attorney Docket No. P107156-00031	) WITHDRAW HOLDING OF
Filed: December 1, 2000	) ABANDONMENT, *UNDER 37 CFR*
For: METHOD OF AND SYSTEM FOR	) *§1.181*
RECORDING AND REPRODUCING	)
INFORMATION DATA	

This is a decision on the petition to withdraw the holding of abandonment, treated under 37 CFR §1.181, filed on January 14, 2005. The previous decision Dismissing the instant petition and mailed on May 31, 2006 is hereby **VACATED**.

The instant application became abandoned for failure to timely respond to the non-final Office action, mailed on April 21, 2004. According to the file record, it appears that the non-final Office action was mailed to the correct address of record at the time, however, as evidence by the returned Office action received by the USPTO on April 26, 2004, Applicant never received the non-final Office action of April 21, 2004.

In view of these facts, the abandonment of the application was clearly in error and is hereby **WITHDRAWN**.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and to **REDATE/REMAIL** the non-final Office action of April 21, 2004, resetting the shortened statutory period for response to begin with the date of mailing.

A proper change of address was received on January 14, 2005 and has been entered.

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

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Paper No. 9

Applied Materials, Inc.
2881 Scott Boulevard
M/S 2061
Santa Clara, CA 95050

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OFFICE OF PETITIONS

In re Application of
Ron Naftali et al.
Application No. 09/766,597
Filed: December 1 ,2000
Attorney Docket No. 002213 USA/PDC/WF

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 21, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on November 13, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §

122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

This application is being forwarded to Technology Center Art Unit 2623 for examination in due course.

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

Frances Hicks
Frances Hicks
Petitions Examiner

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Paper No. 5

RONALD CRAIG FISH
FALK & FISH LLP
P.O. BOX 2258
MORGAN HILL, CA 95038

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FEB 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Matti Halme :
Application No. 09/726,677 :
Filed: November 29, 2000 :
Attorney Docket No. BER-017 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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RUPAK NAG
4406 OAKLAND AVE
MINNEAPOLIS MN 55407

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Wenzel, et al.	:	
Application No. 09/726,704	:	ON PETITION
Filed: November 30, 2000	:	
Attorney Docket No. ZD-P001	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 21, 2006.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

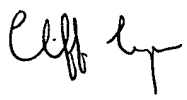
It appears that petitioner filed the instant petition for the wrong application number. Office records indicate that application No. 09/726,704 issued into Patent No. 6,713,573 on March 30, 2004. A search for applications filed by inventor "Botelho" did not reveal an application entitled "Data Processing System for Targeted Content" filed on December 1, 2000.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

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Paula D. Morris
Paula D. Morris & Associates, P.C.
Suite 930
2925 Briar Park Dr.
Houston TX 77042-3728

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Furman et al.
Application No. 09/726,769
Filed: November 29, 2000
For: METHODS OF FUNCTIONALIZING AND FUNCTIONALIZED METAL OXIDE PARTICLES AND MECHANICALLY STRONG AND TRANSPARENT OR TRANSLUCENT COMPOSITES MADE USING SUCH PARTICLE
Attorney Docket No: SwRI-2749 A1
Pub. No.: US 2003/0013382 A1
Pub. Date: January 31, 2002

This is a response to the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 24, 2004, because the patent application publication is missing the assignee information on the front page of the publication.

The request is DISMISSED at applicants request in response to a phone call on May 14, 2004.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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PAULA D. MORRIS
THE MORRIS LAW FIRM, P.C.
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042-3110

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APR 11 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Benjamin L. Furman et al.
Application No. 09/726,769
Filed: November 29, 2000
Attorney Docket No. SWRI-2749A

This is a decision on the petition filed March 10, 2005, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 1, 2004 for failure to timely respond to the non-Final Office Action mailed March 30, 2004. No requests for extensions were filed. This decision precedes the mailing of a Notice of Abandonment.

Petitioner argues that the Notice mailed March 30, 2004 was not received and points out that the address used for mailing the office action was incorrect. Petitioner further argues that a request for customer number data change was filed March 27, 2003 and acknowledged March 28, 2003 but that the office action was mailed to the old address.

A review of the file reveals that the petitioner is correct and it is noted that an error on the part of the USPTO caused the office action mailed to not be received by the petitioner. However, the reason the error occurred is because petitioner never associated customer number 23770 with the instant application until May 5, 2004 when

[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©)).

the Applicant Data Sheet (ADS) was filed. Prior to that, when the requested change was filed, there wasn't a customer number associated with this application. Once the ADS was filed however, it was incumbent upon the USPTO to make the association and since that wasn't done prior to the mailing of the office action on March 30, 2004, the mail was returned as undeliverable. Thus, petitioner's delay in responding to the non-Final Office Action was unavoidable under the standard set out at 37 CFR 1.137(a).

The address has been corrected and the customer number added to this application.

This matter is being referred to Technology Center 1773 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

ALLERGAN, INC., LEGAL DEPARTMENT
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Lin et al. : DECISION ON PETITION
Application No. 09/726,949 :
Filed: November 29, 2000 :
Atty Docket No. 361212000200 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT 37 C.F.R. § 1.181(a)" filed June 26, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 17, 2005. The Office action set a three-month shortened statutory period, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on January 18, 2006. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Upon becoming aware that this application was abandoned, petitioner filed the instant petition. Petitioner asserts that the application was not in fact abandoned because a complete response was timely filed. In support thereof, petitioner submitted a copy of their return postcard and of the response.

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 petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 25, 2005; 2) it specifically identifies the items being filed, including

"Amendment (# pgs. 12)," "PAPER COPY OF SEQ. LISTING" and "SEQ. LISTING ON CD-ROM" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. The evidence shows that a complete response should be considered timely filed on November 25, 2005.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1645 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response re-supplied on petition filed June 26, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Irell & Manella
840 Newport Center Drive, Suite 400
Newport Beach, CA 92660

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APR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Ricardo Guimaraes :
Application No. 09/726,953 : ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. 155615-0018 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 3, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 4, 2002.

This application is being forwarded to Technology Center AU 3742 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS, CO 80527-2400

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JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Geoff Wotton et al :
Application No. 09/726,964 : ON PETITION
Filed: November 29, 2000 :
Attorney Docket No. 10992773-1 :

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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

The application file is being forwarded to Publishing Division via Technology Center AU 1705 for consideration of the Information Disclosure Statement submitted on July 24, 2002.

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

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

January 15, 2003

James E. Eakin
Pillsbury Winthrop
2550 Hanover ST.
Palo Alto, Ca 94304-1115

In re application of:
Karl M. Bizjak DECISION ON PETITION
Serial No.: 09/726,982
Filed: November 29, 2000

For: INPUT LEVEL ADJUST SYSTEM AND METHOD

This is a decision on the petition received October 17, 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 6, 200l. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 10, 2001. A notice of abandonment was mailed on September 19, 2002.

On October 17, 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 Part on April 4, 200l.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Application on April 4, 200l.

Counsel is given one month from the date of this decision to send in an abstract on a separate page to complete the above application.

A decision to withdraw the holding of abandonment has not been decided until the abstract is received.

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.

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)
6,336,840	2002-01-08	09/727,029	2000-11-30	23638us01

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 C. Winslade/	Date (YYYY-MM-DD)	2010-07-14
Name	Christopher C. Winslade	Registration Number	36308

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6336840
Issue Date: January 8,2002
Application No. 09727029
Filed: November 30,2000
Attorney Docket No. 12556.1USC1

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

This is a decision on the electronic petition, filed July 14,2010 ,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 14,2010 . 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

DATE : 12/4/06

Paper No.: ____

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/727046 Patent No.: 7136354B2

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: Title of the invention was suggested to be changed in the office action dated on 7/26/2004.

SPE ____ Art Unit ____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Texas Instruments Incorporated
Mark E. Courtney
P.O. Box 655474, MS 3999
Dallas, TX 75265

COPY MAILED

OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Stephens et al. :
Application No. 09/727,060 : DECISION ON
Filed: November 30, 2000 : PETITION
Attorney Docket No. TI-28757 :

This is a decision on the "PETITION TO REVIVE," filed June 18, 2003 in the above-identified application. Applicants petition to revive the subject application under the provisions of 37 CFR 1.137(a), or in the alternative, under the provisions of 37 CFR 1.137(b).

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time under 37 CFR 1.136(a) are permitted.

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

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed July 17, 2002. This restriction requirement set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was filed within this period and no extensions of time under the provisions of 37 CFR § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 18, 2002. The present petition precedes the mailing of a Notice of Abandonment.

Petitioner states that the Office action was never received[1] according to the records of the assignee Patent Department and the abandonment was not discovered until the examiner called to question whether it was the intention to abandon the application. However, petitioner submitted no docket records in support of this contention and included no statements from practitioner or applicants attesting to the fact that a search of the file jacket and docket records indicated that the Office communication was not received.

[1] Petitioner states that they received a copy of the Office action by telefax from the examiner.

Consideration of Petition under § 1.137(a)

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d). The instant petition lacks item (3).

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

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

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

A review of the Office action of July 17, 2002 reveals that the action was mailed to the correspondence address of record. The record reveals no irregularity in mailing. Petitioner's evidence does not overcome the presumption that the communication was properly mailed to the applicant at the correspondence address of record. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Petitioner has not submitted such evidence. Accordingly, it cannot be concluded that petitioner has met his burden of establishing that the delay was "unavoidable."

Having not made an adequate showing of non-receipt of the Office action or otherwise established unavoidable delay, the petition cannot be granted under § 1.137(a).

Consideration of Petition under § 1.137(b)

Nonetheless, petitioner has met the requirements for a grantable petition under § 1.137(b) on the basis of unintentional delay. The petition includes the reply required in the form of an election; payment of the petition fee; and 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 Technology Center 2817 for consideration of the election by the Examiner.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW
PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

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JUL 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Dennis L. MONTGOMERY :
Application No. 09/727,096 : DECISION ON PETITION
Filed: November 29, 2000 : TO WITHDRAW
Attorney Docket No. 042503-0261928 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ETREPPID TECHNOLOGIES, LLC
755 TRADEMARK DRIVE
RENO, NV 89521

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

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Dennis L. MONTGOMERY :
Application No. 09/727,096 : DECISION ON PETITION
Filed: November 29, 2000 : TO WITHDRAW
Attorney Docket No. 042503-0261928 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include a current correspondence address for future communications from the Office.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no clear indication that the acts noted above have been performed. Please see the attached form PTO/SB/83 – Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.

Further, the Request does not include a clear indication that the attorney signing the withdrawal request is signing on behalf of another/others attorney(s) of record. If the attorney signing the Request is not signing on behalf of another/others, the status of the remaining attorneys must be made clear to the Office.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

Attachment: PTO/SB/83 – Request for Withdrawal as Attorney or Agent

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

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JUN 13 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Dmitrii Louklanov et al :
Application No. 09/727,104 : DECISION REFUSING STATUS
Filed: November 29, 2000 : UNDER 37 CFR 1.47(a)
Atty Docket No. 10559/383001/P10189 :

This is in response to the petition under 37 CFR 1.47(a), filed May 25, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), while petitioner states that a copy of the application (specification, claims, and drawings) was sent to joint inventor Harte's forwarding address and returned by the U.S. Post Office and, further, that all attempts to locate inventor Harte through several databases, including the Internet, and through the telephone have failed, petitioner has not submitted any documentary evidence in support of these assertions. Accordingly, petitioner should supply copies of all available documentary evidence in support of petitioner's attempts to locate nonsigning

inventor Harte. A brief search on Lexis indicates a Howard M. Harte at 4844 Betty Elyse Lane, Scottsdale, AZ 85254. Petitioner may wish to determine whether this is the joint inventor of the instant application.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. In this regard, the declaration fails to set forth joint inventor Harte's residence, citizenship and post office (mailing) address. Additionally, the declaration fails to set forth the post office (mailing) address of joint inventor Sandberg. Accordingly, an oath or declaration complying with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a).

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

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

Paper No. 8

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of	:
Dmitrii Loukianov et al	:
Application No. 09/727,104	: DECISION GRANTING STATUS
Filed: November 29, 2000	: UNDER 37 CFR 1.47(a)
Atty Docket No. 10559/383001/P10189	:

This is in response to the petition filed August 28, 2001, requesting reconsideration of a decision mailed June 13, 2001 refusing to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventor (Howard Harte) cannot be reached 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 at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The decision mailed June 13, 2001 stated that the declaration submitted with the petition of May 25, 2001 failed to set forth the mailing address of joint inventor Sandberg. In response, rather than setting forth the mailing address in a declaration complying with 37 CFR 1.63 and 37 CFR 1.64 or in an Application Data Sheet (ADS), petitioner included the mailing address in the petition. However, the rules provide that the mailing address must be set forth in a declaration complying with 37 CFR 1.63 and 37 CFR 1.64 or submitted in an ADS in accordance with 37 CFR 1.76. Therefore, the mailing address should be

provided either in a substitute declaration complying with 37 CFR 1.63(c)(1) or supplied by way of an ADS in accordance with 37 CFR 1.76 prior to issuance of the instant application or at such time as may be required by the examiner.

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 Division for preexamination 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

RONALD CRAIG FISH
FALK & FISH
P.O. BOX 2258
MORGAN HILL, CA 95038

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MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Matti Halme :
Application No. 09/727,147 : NOTICE
Filed: November 29, 2000 :
Attorney Docket No. BER-015 :

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 2661.

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. 3

JOHN R CROSSAN
CHAPMAN AND CUTLER
111 WEST MONROE STREET
CHICAGO, IL 60603

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FEB 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Harold A. Dvorachek :
Application No. 09/727,166 :
Filed: November 30, 2000 :
Attorney Docket No. 1709898 :

DECISION DISMISSING
PETITION

This is a decision on the petitions under 37 CFR 1.10(d) filed January 24, 2001, requesting that the above-identified application be accorded a filing date of November 28, 2000, rather than the presently accorded filing date of December 1, 2000.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on November 28, 2000, pursuant to the requirements of 37 CFR 1.10, but that the "date-in" on petitioner's "Express Mail" mailing label was omitted as a result of an error by the United States Postal Service (USPS).

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a). (Emphasis Supplied).

Paragraph (d) of 37 CFR 1.10 states that:

> 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"; and

(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 deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "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." In addition, the showing "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." Evidence from the USPS may be the Express Mail Corporate Account Mailing Statement or a copy of the USPS Track/Confirm system information. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such as place, date and time of deposit; the time of the last scheduled pick-up for that date; and the date and time of entry in the log.

The petition filed January 24, 2001 is accompanied by a copy of the USPS Track/Confirm system information showing the Express Mail package in question was accepted in Chicago on November 30, 2000, not November 28, 2000.

The petition is also accompanied by a copy of counsel's handwritten time sheet and a copy of a printout of counsel's "Patent Docket Case Information Sheet," neither of which is an Express Mail log. In fact, there is no entry in either the time

sheet or the docket sheet even suggesting that the application was mailed by Express Mail much less an entry identifying the Express Mail number, the place, date and time of deposit and the name of the individual who deposited the application in Express Mail service. Further, the rule requires that the evidence submitted to corroborate the requested filing date be "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." It is unclear when counsel's handwritten time sheet and "Patent Docket Case Information Sheet" were prepared.

Since the evidence form the USPS, namely, the USPS Track/Confirm system information, corroborates a "date-in" of November 30, 2000, the petition is granted to the extend that the filing date has been corrected to November 30, 2000. The petition is otherwise dismissed.

A copy of the corrected filing receipt is enclosed.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be addressed as follows:

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

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

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

The application is being returned to art unit 3722 with a filing date of November 30, 2000, for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry D. Brinkley

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

Enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

Mueller and Smith
Mueller-Smith Building
7700 RiversEdge Drive
Columbus, OH 43235-1335

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Triozzi et al. :
Application No. 09/727,198 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. CIR 2-005 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 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 11, 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) have been obtained. Accordingly, the above-identified application became abandoned on June 26, 2003.

The application file is being forwarded to Technology Center 1648, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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MAY 30 2003

OFFICE OF PETITIONS

In re Application of :
Dimitri P. Zafiroglu :
Application No. 09/727,207 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. RD8120USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 12, 2002.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1733 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Kenneth D. Sibley
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

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JUL 2 5 2002

OFFICE OF PETITIONS

In re Application of
Russell J. Linderman, et al.
Application No. 09/727,236
Filed: November 30, 2000
Attorney Docket No. 5051.509

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1653 for further processing.

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

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
Washington, D.C. 20231
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DIW 07-01

Paper No. 4

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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JUL 3 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	
Chao et al.	:	
Application No. 09/727,242	:	DECISION GRANTING PETITION
Filed: 30 November, 2000	:	
Attorney Docket No. P/3483-13	:	

This is a decision on the petition filed 9 February, 2001, which is being treated as a petition requesting that the "Notice Of Omitted Item(s) in a Nonprovisional Application" mailed on 16 January, 2001, in the above-identified application be withdrawn.

The petition is GRANTED.

The application was filed on 30 November, 2000. However, on 16 January, 2001, Initial Patent Examination Division mailed the "Notice" stating that the application had been accorded a filing date of 3 November, 2000, and advising applicant that page 48 of the specification appeared to have been omitted and that a signed oath or declaration, and the surcharge for its late filing was required.

In response, on 9 February, 2001, the present petition was filed. Petitioners assert that page 48 of the specification was filed with the other application papers deposited on 30 November, 2000, and that a signed oath or declaration is not required in this application. Petitioners have further supplied a copy of a postcard receipt as well as the Express Mail label.

Page 48 of the specification has been located in the file. Accordingly, the "Notice" mailed on 16 January, 2001, was mailed in error and is hereby vacated to the extent that it states that Page 48 appeared to have been omitted from the application. The petition fee will be refunded.

Petitioner's contention that a signed oath or declaration, and the surcharge for its late filing, are not required is not well taken, as 37 CFR 1.63(f)(3) states that the requirement of 37 CFR 1.63(f)(1) for the filing of an oath or declaration, accompanied by the late filing surcharge, if an oath or declaration is not present at the time an application is filed applies to continuation or divisional application filed under 1.53(b) and (d). As a copy of the executed declaration from the prior application was not among the application papers deposited on 30 November, 2000, the Notice correctly requires a signed oath or declaration and a surcharge for its late filing. Receipt of the signed declaration filed on 9 February, 2001, is acknowledged.

The $130.00 petition fee is unnecessary. $65.00 thereof will be applied to the fee for late filing of an oath or declaration. The remaining balance of $65.00 will be credited to counsel's deposit account, No. 15-0700.

The application is being returned to Initial Patent Examination Division for further processing using the copy of page 48 of specification supplied with the application papers filed 30 November, 2000. The copy of page 48 filed with the present petition will not be processed or examined, but will be retained in the application file.

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

for M. Antonakas

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. 10

Enzo Diagnostics, Inc.
c/o Enzo Biochem Inc.
527 Madison Avenue, 9th Floor
New York, NY 10022

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SEP 27 2002

OFFICE OF PETITIONS

In re Application of :
Dean L. Engelhardt, et al. :
Application No. 09/727,349 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. ENZ-52(D1) :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 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 May 29, 2001.

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1655.

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

In re Application of
Dean L. Engelhardt, et al.
Application No. 09/727,349
Filed: November 30, 2000
Attorney Docket No. Enz-52 (D1)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2003, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,330.00; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application under 37 CFR 1.53(b).

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $110.00 will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 1600, Art Unit 1655.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEP - 3 2003

Paper No. 11

In re Application of :
Travis Nichols *et al* : DECISION ON PETITION
Application No. 09/727,364 :
Filed: November 29, 2000 :
Attorney Docket No. 688-098

This is a decision on the petition filed on August 4, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated December 3, 2001. There is no fee for the petition.

The petition is dismissed as being untimely filed.

The record shows that on December 3, 2001, a requirement to elect a single species of the disclosed invention was mailed. On March 18, 2003, a Notice of Abandonment was mailed because petitioners had failed to file a reply to the election requirement. This petition was filed on August 4, 2003, with a 37 CFR 1.8(a) certificate of mailing dated July 31, 2003.

Under 37 CFR 1.181(f), a petition filed more than two months after the action complained of may be dismissed as being untimely. MPEP § 711.03(c) states, *inter alia*:

> "37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).
>
> Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may treat an untimely petition to withdraw the holding of abandonment on its merits on the condition that, in any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period between the mail date of the notice of abandonment and the filing date of such petition to withdraw the holding of abandonment. See 37 CFR 1.183 (the Office may suspend or waive the requirements of 37 CFR 1.181(f), subject to such other requirements as may be imposed). **The Office may treat an untimely petition to withdraw the holding of abandonment on its merits in a utility or plant application filed on or after June 8, 1995, on the condition that the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 U.S.C. 120, 121, or 365(c). In either case, the terminal disclaimer must also apply to any patent granted on any application that claims the benefit of the filing date of the application under 35 U.S.C. 120, 121, or 365(c).** Such a terminal disclaimer is not required under 37 CFR 1.137(d) because abandonment of an application is a per se failure to exercise due diligence, and as such, an applicant cannot obtain patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by abandonment of the application. Where a petition to withdraw the holding of abandonment is granted, the application is considered to never have been abandoned and, as such, the prosecution delay caused by the treatment of the application as abandoned is not considered a per se failure to exercise due diligence. Thus a terminal disclaimer is required to avoid granting patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by the treatment of the application as abandoned. " (Emphasis supplied.)

Because this petition was filed more than two months after the mailing of the Notice of Abandonment, this petition will not be treated on the merits absent a terminal disclaimer complying with the emphasized portions of the above quoted text. Petitioners may file a renewed petition, without fee, if the renewed petition is accompanied by a proper terminal disclaimer and the fee for the disclaimer.

As a courtesy to petitioners, it is noted that the instant petition was not accompanied by a copy of the reply alleged to have been filed on February 8, 2002. Absent a copy of that reply, the renewed petition can not be decided on its merits.

This application is being retained in Technology Center 3700 pending the filing of a renewed petition.

PETITION DISMISSED.

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

Robert M. Haroun
Sofer & Haroun, LLP
Suite 1921
342 Madison Avenue
New York, NY 10173

UNITED STATES 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

Sofer & Haroun LLP
317 Madison Ave. Ste. 910
New York NY 10017

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JUN 28 2006
OFFICE OF PETITIONS

In re Application of :
Travis Nichols et al. :
Application No. 09/727,364 : DECISION ON RENEWED PETITION
Filed: November 29, 2000 : UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: 688-098 :
Title: CUTTING DEVICE :

This is a decision on the renewed petition filed December 8, 2004, pursuant to 37 C.F.R. §1.181(a)[1], to revive the above-identified application.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 3, 2001, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 4, 2002. A Notice of abandonment was mailed on March 18, 2003.

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.

The original petition was submitted on August 4, 2003, and was dismissed via the mailing of a decision on September 3, 2003.

With the present petition, Petitioner has asserted that a response was filed on January 16, 2002. Petitioner has further included a copy of a postcard receipt, which evinces that a "response to election requirement," "replacement pages," a "certificate of mailing," and a "return postcard" were received in the Office on February 8, 2002. As such, it is clear that a response was received, and subsequently misplaced in the Office.

The present petition cannot be granted for the following two reasons.

First, Petitioner will note that the Restriction Requirement was mailed on December 3, 2001, and set a shortened statutory period to reply for one month. As such, a reply was due no later than January 3, 2002. Petitioner has indicated that a response was not submitted until January 16, 2002 - as such, a one-month extension of time was required in order to make this response timely. As a petition for an extension of time does not appear on the postcard, it does not appear that one was submitted in conjunction with this response to the restriction requirement, and as such, the holding of abandonment was proper. Since Petitioner has failed to provide a copy of this response with either the original or this renewed petition, the Office has no way of determining whether the response contained a request for an extension of time.

Secondly, Petitioner was aware that the Office has no record of the receipt of his response to the restriction requirement - yet it does not appear that a copy of the same has been provided with this petition. As such, *assuming arguendo* that the response had been timely filed, there would be nothing for the Examiner to consider, as there is no response in the electronic file.

As such, the renewed petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b).

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].

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 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.

UNITED STATES 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

Sofer & Haroun LLP
317 Madison Ave. Ste. 910
New York NY 10017

COPY MAILED
AUG 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Travis Nichols et al.	:	
Application No. 09/727,364	:	DECISION ON PETITION
Filed: November 29, 2000	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: 688-098	:	
Title: CUTTING DEVICE	:	

This is a decision on the petition filed July 5, 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 file a proper response to the Restriction Requirement, mailed December 3, 2001, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 4, 2002. A Notice of abandonment was mailed on March 18, 2003.

A petition under 37 C.F.R. §1.181 was submitted on August 4, 2003, and was dismissed via the mailing of a decision on

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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.

September 3, 2003. A renewed petition was submitted on December 8, 2004, which was dismissed via the mailing of a decision on June 28, 2006.

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §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 present petition under 37 C.F.R. §1.137(b) was received on July 5, 2006, along with the petition fee, a response to the restriction requirement, and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement which was submitted concurrently with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MR. DAN REMER, CHAIRMAN
XIPPIX, INC.
125 E. SIR FRANCIS DRAKE BOULEVARD
LARKSPUR, CA 94939

In re Application of:
Minner, et al.
Application No.: 09/727,403
Filed: November 30, 2000
For: SYSTEM AND METHOD FOR EDITING DIGITAL IMAGES USING INDUCTIVE IMAGE GENERATION WITH CACHED STATE-SPECIFIC IMAGE TITLES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

MAIL

OCT 19 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the Request To Withdraw from Representation filed August 8, 2001.

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

The petition is not signed and the requester, Michael E. Woods is not appointed as an attorney or agent of record. There are no attorneys of record for the above-identified application.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address unless the Office receives proper Power of Attorney and/or correspondence address signed by the inventors or the assignee of record. A courtesy copy of this decision will be mailed to the address found on the petition.

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

cc: MCCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

GLENN L. WEBB
P.O BOX 951
CONIFER, CO 80433

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Minner, et al. : DECISION ON PETITION
Application No. 09/727,403 :
Filed: November 30, 2000 :
Atty. Dkt. No.: 23087-703 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 28, 2003 for failure to timely reply to the non-final Office action mailed February 27, 2003. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed October 31, 2003.

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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 2600 for further processing.

Application No. 10/727,403

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Minner, et al. :
Application No. 09/727,403 : NOTICE
Filed: November 30, 2000 :
Attorney Docket No. 23087-703 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed December 7, 2004.

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.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Medtronic, Inc.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Marc Hendriks :
Application No. 09/727,461 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. P-8573 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 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 Restriction Requirement mailed June 4, 2002, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 5, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1632.

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

Supervisor, Patent Prosecution Services
Piper Marbury Rudnick & Wolfe LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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NOV 2 2 2002

OFFICE OF PETITIONS

In re Application of
William Muhammad
Application No. 09/727,489
Filed: December 4, 2000
Attorney Docket No. 9504-001-27

DECISION ON PETITION

This is a decision on the "Petition to Revive" filed October 2, 2002, under 37 CFR 1.137(b), to revive the above-identified application. This petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to reply to the "Notice to File Corrected Application Papers" mailed January 18, 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. No reply having been received, the above-identified application became abandoned on March 13, 2001. A Notice of Abandonment was mailed on September 3, 2002.

In response, petitioner promptly filed the instant petition. Petitioner states that as evidenced by the attached copy of the date stamped filing receipt, formal drawings were timely filed on March 19, 2001; and requests that the application be revived.

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 petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on March 19, 2001; 2) it specifically identifies the items being filed, including "Formal Drawings 6 sheets" and "Return Notice to File Corrected Application Papers" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the response, 6 sheets of drawings, should be considered timely filed on March 19, 2001.

Accordingly, the Notice of Abandonment mailed September 3, 2002 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

Consideration of the petition under § 1.137(b) is unnecessary. The petition fee submitted ($130[1]) is being refunded to Deposit Account No. 50-1442, as authorized. (There is no fee for consideration of the petition under § 1.181).

[1] Petitioner is advised, however, that the petition fee for consideration under § 1.137(b) is currently either $640 for a small entity, or $1,280 for a large entity.

The application file is being forwarded to the Office of Initial Patent Examination for processing of the response (Paper No. 6) to the "Notice to File Corrected Application Papers" resubmitted October 2, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of :
Hua Chen, et al. :
Application No. 09/727,524 : ON PETITION
Filed: March 29, 2000 :
Attorney Docket No. SOM920000010US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 8, 2006. A Notice of Abandonment was mailed on September 22, 2006.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2193 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FERNANDEZ & ASSOCIATES LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

MAILED

FEB 0 8 2005

Technology Center 2100

In re Application of:
Paul NADJ, et al.
Application No. 09/727,534
Filed: November 28, 2000
For: DATA STRUCTURE AND METHOD FOR PIPELINE HEAP-SORTING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed July 15, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla, LLP as the attorney of record of the instant application. The Power of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: Michael L. Gencarella, Esq.
Martine & Penilla, LLP
710 Lakeway Drive, #170
Sunnyvale, CA 94085

UNITED STATES 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.

Dennis S. Fernandez
FERNANDEZ & ASSOCIATES LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

MAILED

FEB 08 2005

Technology Center 2100

In re Application of:
Nadj, et al.
Application No. 09/727,534
Filed: November 28, 2000
For: DATA STRUCTURE AND METHOD FOR PIPELINE HEAP-SORTING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation under 37 CFR filed July 15, 2004.

A revocation And Substitution of Power of Attorney Under 37 CFR 1.136 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla, LLP as the attorneys of record of the instant application. The Power Of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

/Sumner R. Matthews/

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

cc: Michael L. Gencarella, Esq.
MARTINE & PENILLA, LLP
710 Lakeway Drive, #170
Sunnyvale, CA 49085

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

#5
8/27/02

AUG 27 2002

Paper No. 5

SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of: Afzal Khalfay, et al.	)	
Application No. 09/727,569	)	
Filed: November 30, 2000	)	**DECISION ON REQUEST FOR**
For: COMPUTER USER INTERFACES THAT ARE GENERATED AS NEEDED	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed August 5, 2002.

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

The request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DR. DANIEL P. MORRIS, ESQ.
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

COPY MAILED

JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Angelopoulos et al. :
Application No. 09/727,615 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. YOR919960050US3 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 14, 2003. A Notice of Abandonment was mailed on February 25, 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 processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

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OCT 26 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Angelopoulos, et al. :
Application No. 09/727,615 :
Filed: December 1, 2000 :
Attorney Docket No. YOR919960050US3 :

This is a decision on the petition under 37 CFR 1.181, filed February 9, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to reply to the final Office action, mailed May 20, 2005, which set an extendable three month period for reply. No extensions of time being obtained and no reply being received in the Office, the application became abandoned on August 21, 2005. A Notice of Abandonment was mailed on December 5, 2005.

The Office did not withdraw the May 20, 2005 final Office action. Applicants were given an extendable three month period to reply. Applicants allowed the time period for reply to elapse and then argued against the grounds for rejection stated in the May 20, 2005 final Office action. Applicants responded too late. The application did become abandoned. The petition to withdraw the holding of abandonment is dismissed.

Petitioners are strongly encouraged to file a petition to revive under the unintentional standard of 37 CFR 1.137(b).

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

By mail:

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

By hand:

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

By FAX:

(571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Angelopoulos, et al. :
Application No. 09/727,615 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. YOR919960050US3 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2006, requesting revival of the above-identified application.

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

This application was held abandoned for failure to reply to the final Office action, mailed May 20, 2005, which set an extendable three month period for reply. No extensions of time being obtained and no reply being received in the Office, the application became abandoned on August 21, 2005. A Notice of Abandonment was mailed on December 5, 2005.

Applicants have submitted a RCE, required fee, and submission in response to the May 20, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 20, 2005 final Office action, and the petition fee.[1] Therefore, the petition is **GRANTED**.

This decision on petition does not address the merits of the submission filed with the RCE.

After the mailing of this decision the application will be forwarded to Technology Center AU 1751 for consideration of the RCE filed on December 7, 2006.

[1] Pursuant to petitioners' authorization, the required $1,500.00 petition fee will be charged to deposit account no. 09-0468.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. DANIEL P. MORRIS, ESQ.
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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OFFICE OF PETITIONS

In re Application of	:	
Angelopoulos et al.	:	
Application No. 09/727615	:	DECISION DISMISSING PETITION
Filed: 12/01/2000	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOR919960050US3	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on December 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications listed in the subject petition. This is also a decision on the concurrently-filed petition for expedited consideration of the petition under 37 CFR 1.78(a)(3).

The petition for expedited consideration is **GRANTED**.

The petition under 37 CFR 1.78(a)(3) 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 and 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, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i).[1] In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[2]

Additionally, it is noted that the petition states that applicants seek to amend the claim of benefit to state, *inter alia*, that the subject application "is a CIP of pending US Application Serial No. 09/945,898, filed on 09-04-2001."

37 CFR 1.78(a)(3) states, in pertinent part:

> If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a **prior-filed** copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed.
>
> (emphasis added)

The above-referenced benefit claim is improper because the application to which benefit is claimed, Application No. 09/945,898, filed on September 4, 2001, was filed after the filing date of the subject application, No. 09/727,615, filed on December 1, 2000. An application may not claim the benefit of a later-filed application.

If applicant wishes to make a claim in Application No. 09/945,898, filed on September 4, 2001, for the benefit of the subject application, No. 09/727,615, filed on December 1, 2000, that claim of benefit to the subject application must be filed in the later-filed application.

Further, it is also noted that the benefit claim in the petition appears to state that Application No. 08/911,262, filed on August 14, 1997, is a continuation of application No. 09/727,615, filed on December 1, 2000. Again, this is not a proper benefit claim as the application to which benefit is

---

[1] It is noted that petitioner has submitted concurrently with the subject petition an amendment after final rejection containing changes to the claims, but the subject benefit claim is not in the amendment after final rejection. Rather, the benefit claim is contained within the petition itself.

[2] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

claimed is a later-filed application. Any renewed petition must be accompanied by a proper amendment containing a proper claim of benefit as specified in 37 CFR 1.78(a)(3).

The fees required for the petition to expedite and the petition under 37 CFR 1.78(a)(3) have been charged to counsel's deposit account, as authorized in the present petition.

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

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

By hand: Customer Service Window
Mail Stop Petitions
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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
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

HOVEY WILLIAMS
2405 GRAND BLVD
SUITE 400
KANSAS CITY, MO 64108

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JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of :
David Scott Groothuis et al :
Application No. 09/727,632 : NOTICE
Filed: December 1, 2000 :
Attorney Docket No. 30694 :

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 application file is being referred to Publishing Division.

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

cc: SPENCER FANE BRITT & BROWNE
1000 WALNUT, SUITE 1400
KANSAS CITY, MO 64106

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

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OFFICE OF PETITIONS

In re Application of :
Katsumi Yoshizawa :
Application No. 09/727,633 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. 09812.0681 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 11, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper response to the final Office action, mailed April 20, 2005. This Notice set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 21, 2005. A Notice of Abandonment was mailed on September 26, 2006.

Petitioner contends that he did timely file a proper response to the final Office action. In support, petitioner has included a copy of an RCE and an Amendment, bearing Express Mail mailing label no. EV 647102233US. In addition, petitioner has included a copy of the corresponding Express Mail mailing label, bearing a "date in" entry of July 19, 2005. Furthermore, Office records indicate that the fee for the RCE was received on July 19, 2005.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3622 for consideration of the RCE and Amendment filed July 19, 2005 (copy supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/727,739	**12/19/01**	**MARK A SHERIDAN, ET AL**	**4181**

Title: **SOMATOSTATINS AND METHODS**

Art Unit	Paper Number

Correspondence Address:
VICTORIA A. SANDBERG
MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN. 55458-1415

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 528,610

Grant Date: 05-Apr-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	SHERIDAN et al.	:DECISION ON REQUEST
Serial No.:	09/727,739	:UNDER 37 CFR 5.25
Filing Date:	December 1, 2000	
Petition Filed:	April 25, 2001	
Docket No.:	255.0004 0101	

Title: SOMATOSTATINS AND METHODS.

This is a decision on the renewed petition received April 25, 2001 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Canada	December 1, 2000

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

#17

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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NOV 2 5 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shotaro Yamaguchi :
Application No. 09/727,769 :
Filed: December 4, 2000 :
Attorney Docket No. Q62106 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 7, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/324,910, filed June 3, 1999,

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). 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, unless previously submitted;[1]
> **(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.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on December 4, 2000 and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed nonprovisional application was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on November 7, 2002. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both appli-cations, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of Karen Creasy **.**

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

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Any questions concerning this matter may be directed to Karen Creasy
At (703) 305-8859.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 19

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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#19

DEC 16 2002

OFFICE OF PETITIONS

In re Application of :
Shotaro Yamaguchi :
Application No. 09/727,769 : DECISION ON PETITION
Filed: December 4, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Q62106 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on December 12, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/324,910, filed June 3, 1999. An substitute amendment was filed concurrently with the instant renewed petition.

The petition is **GRANTED**.

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;[1]
>
> **(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

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 4, 2000, and was pending at the time of filing of the instant petition. Further, copendency exists between the instant application and prior-filed nonprovisional Application No. 09/324,910, for which a claim for benefit of priority is now being sought. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(i).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/324,910 satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted as of the date of filing the petition.

A corrected Filing Receipt, which includes the priority claim to prior-filed nonprovisional Application No. 09/324,910, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 1652 to await a reply to the nonfinal Office action or August 13, 2002 or, if filed, for association of the reply with the application. Additionally, the Examiner will undertake appropriate processing and consideration of the claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/324,910, filed June 3, 1999.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

Celera Genomics Corp.
Attn: Robert A. Millman, Patent Director
45 West Gude Drive
C2-4#20
Rockville, MD 20850

COPY MAILED

JUN 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Zhenya Li, et al. :
Application No. 09/727,770 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. CL000651 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 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 Non-Provisional Application mailed January 12, 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 13, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Machcha et al. :
Application No. 09/727,839 :
Filed: November 30, 2000 :
Attorney Docket No. Q00-1017-US1 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed November 1, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 1, 2002. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 2, 2002. A Notice of Abandonment was mailed on February 11, 2003.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment and substitute drawings in response to the August 1, 2002 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2652 for processing of the Amendment and substitute drawings, filed November 1, 2003, in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Machcha et al. :
Application No. 09/727,839 :
Filed: November 30, 2000 :
Attorney Docket No. Q00-1017-US1 :

This is a decision in response to the correspondence filed November 10, 2003 (Certificate of Mailing dated November 5, 2003, requesting addition of a named inventor to the application and a corrected filing receipt. The correspondence is properly treated as a petition under 37 CFR 1.181.

This Petition is hereby **granted**.

The above-identified application was filed on November 30, 2000. On March 31, 2001, the Office mailed a Filing Receipt which did not include inventor James F. Martin.

Applicant files the instant correspondence requesting addition of a inventor James F. Martin to the application and the mailing of a corrected filing receipt.

This application is being forwarded to Technology Center Art Unit 2652 for processing of the Amendment and substitute drawings, filed November 1, 2003, in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCHMEISER, OLSEN & WATTS
SUITE 201
3 LEAR JET
LATHAM NY 12033

COPY MAILED

DEC 30 2004

OFFICE OF PETITIONS

In re Application of :
Rajendra Bera :
Application No.09/727,846 : ON PETITION
Filed: December 1, 2000 :
Title of Invention: METHOD OF :
DETERMINING THE SYNTACTIC :
CORRECTNESS OF EXPRESSIONS

This is a decision on the petition filed October 18, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

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

This application became abandoned for failure to timely submit a response to the Office Action mailed February 13, 2004. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 14, 2004. A Notice of Abandonment was mailed September 9, 2004.

Petitioner contends the Office Action was never received.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office 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] The showing outlined above may not be sufficient if there are circumstances that point

---

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

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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.

A review of Office records shows the Office Action was mailed on February 13, 2004 to the correspondence address of record which was Ronald Drumheller of Mahopac, NY. This change of correspondence address was entered as a result of the request of attorney of record T. Rao Coca submitted on August 6, 2002. Accordingly any renewed petition should include a statement from T. Rao Coca that the Office Action was not received since petitioner was not the attorney of record when the Office Action was mailed. Further the Office is interested in the docket reports of T. Rao Coca, the attorney of record at the time the Office Action was mailed.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHMEISER, OLSEN & WATTS
SUITE 201
3 LEAR JET
LATHAM NY 12033

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Rajendra Bera :
Application No.09/727,846 : ON PETITION
Filed: December 1, 2000 :
Title of Invention: METHOD OF :
DETERMINING THE SYNTACTIC :
CORRECTNESS OF EXPRESSIONS

This is a decision on the petition filed February 25, 2005 under 37 CFR 1.137(b).

This application became abandoned for failure to timely submit a response to the Office Action mailed February 13, 2004. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 14, 2004. A Notice of Abandonment was mailed September 9, 2004. A petition filed under 37 CFR 1.137(a) was dismissed on December 30, 2004.

This petition is hereby **GRANTED**.

This application is being forwarded to Technology Center 2100 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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Paper No. 10

PAUL J. ESATTO, JR.
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

COPY MAILED

SEP 23 2008

In re Application of	:	
Hosoda et al.	:	DECISION ON PETITION
Application Number: 09/727877	:	TO WITHDRAW HOLDING OF
Filing Date: 12/01/2000	:	ABANDONMENT
Attorney Docket Number: 14108	:	

This is a decision on the "REQUEST TO RESCIND ABANDONMENT UNDER 37 C.F.R. § 1.181(a)," filed on May 4, 2006, which is treated as a petition to withdraw the holding of abandonment.

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

The application was held abandoned for failure to timely submit an English translation of the specification, as well as a statement that the translation is accurate, and a $130.00 fee in accordance with 37 CFR 1.17(k) as required by the Notice to File Missing Parts of Nonprovisional Application, mailed on January 16, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on March 28, 2006.

Petitioners assert that a response was in fact timely filed. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of a "Response to Notice to File Missing Parts of Application Transmittal," a check for $130.00, and an English language specification with certificate of translation. The post card identifies the application by application number, first named inventor's name, invention title, filing date, and attorney docket number, and contains an "Office-date" stamp dated February 26, 2001. A copy of the English translation of the specification and the statement that the translation is accurate were also included with the petition.

A review of Office financial records reveals that the $130.00 fee was received on February 26, 2001.

Petitioners' response to the Notice to File Missing Parts of Nonprovisional Application mailed on January 16, 2001, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Notice to File Missing Parts of Nonprovisional Application mailed on January 16, 2001 was timely filed in the Office but was not matched with the application file.

As such, the showing of record is that there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Office of Patent Application Processing for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

FILE COPY

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09727892	12/01/00	Jerry Pelletier	073406-0302

Richard J. Warburg
Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

RECEIVED
JAN 0 9 2002
TECH CENTER 1600/2900

Date Mailed: 01/04/02

RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

Application Filing Date

In response to your request for a corrected Filing Receipt, the Office can not comply with your request because:

☐ 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, a petition to accord a filing date should be submitted along with a copy of the Express Mail label showing the "date in" and be directed to the Office of Petitions.

☒ A copy of the Express Mail label was not enclosed with your request. Petitions under 37 CFR 1.10 require a copy of the Express Mail Label to be submitted.

☐ The "date in" on the Express Mail label is the date given on the Filing Receipt.

☐ The filing date accorded to the application is the date the application met the filing date requirements of 37 CFR 1.53(b) or (c).

☐ Applications submitted with a certificate of mailing under 37 CFR 1.8 are accorded a filing date as of the date the application is received in the U.S. Patent and Trademark Office. A request to review the filing date accorded to the application must be in the form of a petition.

☐ The filing date on your return postcard is the same as the date on your Filing Receipt. A request to review the filing date accorded to the application must be in the form of a petition.

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

GENERAL ELECTRIC COMPANY
ANDREW C HESS
GE AIRCRAFT ENGINES
ONE NEUMANN WAY M/D H17
CINCINNATI OH 45215-6301

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Birdwell, et al. :
Application No. 09/727,898 : ON PETITION
Filed: December 1, 2000 :
Docket No.: 13DV13419 :

This decision is in response to the petition under 37 C.F.R. § 1.137(b) filed May 21, 2004.

The petition is GRANTED.

This application became abandoned March 9, 2001 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed January 8, 2001. The Notice set a two month shortened statutory period of time for reply. No petition for an extension so time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 7, 2003.

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 reply to the Notice is accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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

Paper No. 21

OCT 1 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Kaplan & Gilman LLP
900 Route 9 North
Woodbridge NJ 07095

In re Application of :
Elon Ray Coats :
Application No. 09/727,903 : DECISION ON PETITION
Filed: December 1, 2000 : TO MAKE SPECIAL
For: **SUB-HARMONIC GENERATOR AND STEREO EXPANSION PROCESSOR** :

This is a decision on the petition filed February 9, 2004 and supplemented on August 9, 2004, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The Petitioner has, in the combination of original petition and supplement to the original petition, met 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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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VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQE03H14
IRVING TX 75038

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NOV 16 2005

OFFICE OF PETITIONS

In re Patent of :
Ayyagari, et al. :
Patent No. 6,894,991 :
Issue Date: May 17, 2005 : Decision on Request
Application No. 09/727,926 :
Filing Date: November 30, 2000 :
Attorney Docket No. 00-8006 :

This is a decision on the request filed on August 26, 2005 under 37 CFR 3.81(b) to accept the correction of the assignee data after the patent has issued.

The request under 37 CFR 3.81(b) is **granted**.

37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 28 2005

Director's Office
Group 3700

Paper No. 16

J.C. Patents, Inc.
4 VENTURE STE. 250
Irvine, CA 92618-7379

In re Application of
CHANG ET AL.
Appl No.: 09/727,946
Filed: December 01, 2000
For: HOT PLATE COOLING SYSTEM

DECISION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed June 13, 2003 for failure to timely pay the issue fee as required by the Notice of Allowance mailed January 28, 2003.

A review of the file indicates that a Change of Address was filed by applicant on January 24, 2002 and was not timely entered in the file. Therefore, the Notice of Allowance and Notice of Abandonment were mailed to an incorrect address. Both the Notice of Allowance and Notice of Abandonment have been returned to the Office verifying that applicant did not receive the mailings.

In view of the above, the Notice of Abandonment mailed June 13, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to remail the Notice of Allowance to the current address of record. The statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied office action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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BERRY & ASSOCIATES P.C.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

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JAN 04 2010

In re Application of	:	
McIlroy, Guy	:	
Application No. 09/727,953	:	ON PETITION
Filed: November 30, 2000	:	
Attorney Docket No. 3281.ACCESS.ASA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 23, 2009, 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 Response to Office Action, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2437 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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NOV - 7 2005

Edward G. Greive
RENNER, KENNER, GREIVE, BOBAK,
TAYLER & WEBER
Fourth Floor, First National Tower
Akron, OH 44308

In re Application of
Isao Tomon
Application No. 09/727,961
Filed: December 1, 2000
For: IT SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated February 17, 2004.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/jwk: 4/7/05

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 20 2005

Commissioner for Patents
United States Patent and Trademark Office
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EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK,
TAYLER & WEBER
FOURTH FLOOR, FIRST NATIONAL TOWER
AKRON, OH 44308

In re Application of
Isao Tomon
Application No. 09/727,961
Filed: December 01, 2000
For: IT SYSTEM

: **DECISION ON PETITION**
: **TO WITHDRAW THE**
: **HOLDING OF ABANDONMENT**
:

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on July 06, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed February 12, 2004.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/bkg: 12/13/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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WAGNER MURABITO & HAO LLP
TWO NORTH MARKET STREET
THRID FLOOR
SAN JOSE CA 95113

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MAR 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Lunsford et al.	:	
Application No. 09/727,982	:	DECISION ON PETITION
Filed: 30 November, 2000	:	
Atty Docket No. PALM-2908.SG	:	

This is a decision on the renewed petition filed on 17 February, 2006, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 27 November, 2004, for failure to file a timely reply to the final Office action mailed on 26 August, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply

---

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

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

were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 21 April, 2005. The petition filed on 22 September, 2005, was dismissed on 20 December, 2005.

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

As the petition fee was submitted with the petition filed on 22 September, 2005, no additional petition fee is necessary. The duplicate fee will be credited to counsel's deposit account as authorized in the petition.

This application is being referred to Technology Center Art Unit 2155 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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BERRY & ASSOCIATES, P.C.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Steve Lemke :
Application No. 09/727,984 : DECISION ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. PALM-3280.US.P :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 15, 2007, to revive the above-identified application.

The application became abandoned for failure to file a reply to the final Office action mailed March 19, 2007.

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 Bosco Kim appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

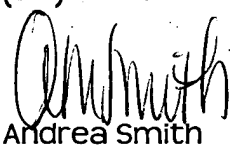
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $810 filing fee and an amendment; (2) the petition fee of $1,540;

and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2135 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WAGNER, MURABITO & HAO, LLP
Two North Market Street
Third Floor
San Jose, CA 95113

COPY MAILED
JUL 13 2006
OFFICE OF PETITIONS

In re Application of :
E. Michael Lunsford, et. al. :
Application No. 09/727,986 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. 3COM-2962.WHD.US.P :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 27, 2006, to revive the above-identified application.

The above application became abandoned for failure to file a timely response to the final Office action mailed August 13, 2004. A Notice of Abandonment was mailed on June 30, 2005.

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

The petition 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 with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the RCE filed October 13, 2005 was considered improper, the $790 will be refunded to petitioner's deposit account.

This application is being revived for consideration of the RCE filed January 27, 2006.

The application file is being referred to Technology Center Art Unit 2157.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Paper No. 14

Wagner Murabito & Hao
Two North Market Street
Third Floor
San Jose, CA 95113

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JAN 12 2004

OFFICE OF PETITIONS

In re Application of :
Francis Canova Jr. :
Application No. 09/728,023 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. PALM-3304.SG :

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 mailed March 7, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 8, 2003.

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 2673 for further processing.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 08

Garlick, Harrison & Markison LLP
P. O. Box 160727
Austin TX 78716

OCT 15 2003

In re Application of:
Willis John
Application No. 09/728,027
Filed: November 30, 2000
Attorney Docket No.: SIG000064

DECISION
ON
PETITION

This is a response to the petition under 37 CFR § 1.181 to withdraw the holding of abandonment for the above identified application filed June 16, 2003, for which no fee is required

The petition is **granted.**

The application was held abandoned for failure respond to the Office action mailed April 01, 2002. A Notice of Abandonment was mailed on May 21, 2003.

The petitioner asserts that the Office action was not received by the practitioner. To support this assertion, the petitioner has provided a copy of the practitioner's docket records that demonstrate where the non-received Office action would have been entered had it been received by the practitioner. Additionally, the petitioner has provided a statement that attests that a search of the file jacket and docketing records indicates that the Office action of April 01, 2002, was not received by the petitioner.

A review of the written record reveals that the above-identified Office action was returned by the United States Postal Service to the United States Patent and Trademark Office (PTO). The PTO did not remail the Office action pursuant to MPEP 707.13. Accordingly, the application was not abandoned in fact.

In view of the above, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action dated April 01, 2002. The statutory periods for response set therein will be reset to run three months from the date the Office action is remailed. Extensions of time may be available under 37 C.F.R. 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL 21 2003

Paper No. 12

In re Application of :
Hung Chen *et al* : DECISION ON PETITION
Application No. 09/728,038 :
Filed: December 1, 2000 :
Attorney Docket No. AMA/3778/CAMP/CAMP/RKK

This is a decision on the petition filed on June 10, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated October 23, 2002, a final rejection. This relief is available under 37 CFR 1.181, without fee, and is within the jurisdiction of the undersigned.

The petition is denied.

Petitioners allege that the application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioners have supported this allegation by enclosing a copy of the reply and a copy of the filing receipt for the reply which shows that the reply was received in the Office on January 23, 2003. Petitioners argue that because there was a delay in associating the response with the application file, the examiner's advisory action refusing entry of the response was not mailed until after the expiration of the maximum six month statutory period permitted by 35 USC § 133, resulting in abandonment of the application.

As previously noted, the October 23, 2002 Office letter was a final rejection. Under 37 CFR 1.113 and 1.116, only certain replies to a final rejection are considered to be proper replies. The reply filed by petitioners was not considered by the examiner to be a proper reply to the final rejection. Therefore, the reply filed on January 23, 2003 was insufficient to avoid abandonment. It was petitioners' duty to closely monitor the status of the application **and** to timely file a **proper** reply to the final rejection insofar as the regulations define the type of replies that constitute a **proper** reply to a final rejection. See also MPEP §§ 714.12 and 714.13. In the absence of a timely and proper reply to the final rejection dated October 23, 2003, it appears that the application was properly held to have become abandoned for failure to timely file a proper reply to the final rejection.

For the foregoing reasons, the application is considered to have been properly held to be abandoned. It appears that petitioners' remedy is to proceed pursuant to 37 CFR 1.137. However, petitioners are entitled to file a request for reconsideration of this decision, without fee, provided that such request is filed within two months of the date of this decision. See 37 CFR 1.181(f).

This application is being returned to storage as an abandoned file so that it may readily be accessed by the Office of Petitions in the event that petitioner instead elects to proceed under 37 CFR 1.137 rather than by way of a filing a request for reconsideration under 37 CFR 1.181.

PETITION DENIED.

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

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

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ALEXANDRIA, VA 22313-1450
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OCT 20 2003

Paper No. 13

In re Application of :
Hung Chen *et al* : DECISION ON PETITION
Application No. 09/728, 038 :
Filed: December 1, 2000 :
Attorney Docket No. AMA/3778/CAMP/CAMP/RKK

The petition filed on August 19, 2003 is being treated as a request for reconsideration of the Decision on Petition dated July 21, 2003 (paper No. 11) in which the petition to withdraw the holding of abandonment filed on June 16, 2003 was denied. The request for reconsideration is being considered under 37 CFR 1.181, and no fee is required.

The request for reconsideration is denied.

A review of the record shows that the basis for denial of the original petition was that petitioners had not replied to the final rejection dated October 23, 2002 by filing a reply thereto that was in accordance with 37 CFR 1.113 and 1.116.

Petitioners' request for reconsideration is not responsive to the holding in the paper No. 11. As noted in the paper No. 11, petitioners' had a duty under the above cited regulations to file a proper reply to the final rejection. To the extent that petitioners believed the amendment after final rejection that was filed was a proper reply, but did not receive notification from the Office regarding that reply, it was petitioners' burden under the regulations to seasonably inquire as to the status of that reply. In the absence of information from the Office that the reply after final was acceptable, and in the absence of any information at all regarding the reply after final, petitioners' could not safely assume that they had satisfied the requirements of 37 CFR 1.113 and 1.116. Contrary to petitioners' argument at page two, second full paragraph of the request for reconsideration, the ability to inquire regarding the status of the amendment after final action, and the ability to file a reply that petitioners could know would be in compliance with 37 CFR 1.113 and 1.116, as opposed to filing a reply that was "believed" to be in compliance, were at all times within petitioners' control.

The request for reconsideration has been granted to the extent that the original petition has been carefully reconsidered, together with the record as a whole including the points raised in the request for reconsideration. However, the request does not provide any basis for granting any substantive relief and the granting of the requested relief is denied.. It appears that petitioners' remedy is to proceed pursuant to 37 CFR 1.137.

REQUEST FOR RECONSIDERATION DENIED.

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

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

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Paper No. 18

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chen et al. :
Application No. 09/728,038 :
Filed: December 1, 2000 :
Attorney Docket No. APPM/3778/PPC/CMP/RKK :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely and properly reply to the final Office action mailed October 23, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 24, 2003. A Notice of Abandonment was mailed May 21, 2003.

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

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

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

cc: ROBERT W. MULCAHY
3040 POST OAK BLVD., SUITE 1500
HOUSTON, TX 77056

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Paper No. 6

JAMES M. WARNER
PHARMACIA CORPORATION
800 N. LINDBERGH/O4E
ST. LOUIS, MO 63167

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AUG 27 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Leonard J. Ferro, et al. :
Application No. 09/728,040 :
Filed: December 1, 2000 :
Attorney Docket No. 3411/US :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 15, 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 16, 2001.

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

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

Retta Williams

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

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James M. Warner
Pharmacia Corporation
800 N. Lindbergh/O4E
St. Louis, MO 63167

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OFFICE OF PETITIONS

In re Application of

Ferro, et al.

Application No. 09/728,040

Filed: December 1, 2000

Attorney Docket No. 3411/US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file an appeal brief within two months after a notice of appeal was filed on April 11, 2005. The application became abandoned on June 12, 2005. A Notice of Abandonment was mailed on December 20, 2005.

The Request for Continued Examination, filed December 27, 2005, is noted.

The application is being forwarded to Technology Center 1600, GAU 1626 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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GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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AUG 1 8 2008

In re Application of :
Leonard J. FERRO, et al :
Application No. 09/728,040 : DECISION ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. PC031298A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1626 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

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Gina N. Shishima
FULBRIGHT & JAWORSKI LLP
600 Congress Avenue, Suite 2400
Austin, Texas 78701

In re Application of	:	
Rombel et al	:	PETITION TO
Serial No.: 09/728,041	:	WITHDRAW HOLDING OF
Filed: December 01, 2000	:	ABANDONMENT
Attorney Docket No.: UTSD:679US/GNS	:	

This is in response to applicants' petition, filed July 17, 2002, requesting withdraw holding of abandonment.

On November 27, 2001, an Office action was mailed. On July 16, 2002, applicant was contacted by the examiner regarding abandonment of instant application due to non-reply to the office action dated November 27, 2001. On July 17, 2002, the present petition was filed. Applicants assert that the Office action dated November 27, 2001 was never received. The petition was accompanied with a copy of the docket records of representatives Gina N. Shishima and Steve Highlander, where the non-received Office communication would have been entered and docketed.

Applicants' statement and evidence sufficiently show that the office action in question was never received. Although the application is technically abandoned, no Notice of Abandonment has been mailed. Accordingly, the petition is Dismissed.

Applicants' petition DISMISSED.

The office action dated November 27, 2001 is being remailed herewith. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH FROM THE MAILING DATE OF THIS LETTER.

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

Cecilia Tsang for
John Doll
Director, Technology Center 1600

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FEB - 1 2006

#14

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of	:	
Gustavo M. Guillemin et al.	:	DECISION ON PETITION
Application No. 09/728,045	:	TO WITHDRAW THE
Filed: November 30, 2000	:	HOLDING OF ABANDONMENT

For: SYSTEMS AND METHODS FOR SECURE PRINTING

This is in reply to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office, on August 15, 2005.

The petition is **GRANTED.**

A review of the file record reveals that a Notice of Allowance and Fee(s) Due (hereinafter the Office action) was mailed September 7, 2004. No reply to the Office action was received by the Office and a Notice of Abandonment was mailed to applicants on July 15, 2005.

Petitioners state that the Office action mailed September 7, 2004 was never received.

Further review of the application file record reveals that the Office action mailed on September 7, 2004, was returned to the Office as being undelivered on September 21, 2004. The application file record also reveals that all other Office communications mailed to the applicants' address were received. The application file record and the petitioners' statement that the Office action mailed on September 7, 2004, was not received by the applicants, provides sufficient proof that the applicants did not receive the Office action.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to redate and remail the Notice of Allowability and the Notice of Allowance and Fee Due (PTOL-85), originally mailed on September 7, 2004. It is noted that the petitioner paid the issue fee on August 16, 2005. However, the petitioner is **still required** to return PTOL-85B within three months of the mailing date of the Notice of Allowance **or the application will be regarded as abandoned**. Petitioner should include with the PTOL-85B a letter explaining that the issue fee has already been paid.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/bkg: 1/24/06

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#16

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Gustavo M. Guillemin et al :
Application No. 09/728,045 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. 10001333-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005, to revive the above-identified application.

The petition is **DISMISSED** as Moot.

The petition is dismissed as moot in view of the decision granting the petition to withdraw the holding of abandonment under 37 CFR 1.181(a) mailed February 1, 2006.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

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Director's Office
Group 3700

ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS)
14135 NORTH CEDARBURG ROAD
MEQUON WI 53097

In re Application :
Manojkumar SARANATHAN, et al :
Serial No. 09/728,071 :
Filed: November 30, 2000 :
For: METHOD AND APPARATUS FOR AUTOMATED :
TRACKING OF NON-LINEAR VESSEL MOVEMENT... :

DECISION ON PETITION
UNDER 1.181

This is a decision on the paper received on February 27, 2003, and captioned PETITION UNDER 37 C.F.R. 181(a) REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT.

The letter includes a copy of a response to the restriction requirement and a certificate of facsimile transmission dated September 30, 2002, showing transmission to fax number 703-746-4951 on that date.

The letter also includes a copy of a Response to Interview Summary and a certificate of facsimile transmission dated November 18, 2002, showing transmission to fax number 703-746-4951 on that date.

It is noted that 703-746-4951 is examiner Robinson's personal fax number for unofficial communications.

The petition is granted. It is apparent that the application was never in fact abandoned.

Accordingly, the Notice of Abandonment mailed February 11, 2003, is hereby vacated and the holding of abandonment is withdrawn.

The application will be forwarded to the Technical Support staff for entry of the Response to Interview Summary and the Response to the Restriction Requirement. The application will then be returned to the Examiner for further action consistent with this decision.

The applicants are requested to send future facsimile communications to the official fax numbers for TC 3700, which are: 703-872-9303 for after final communications and 703-872-9302 for all other official communications.

Teresa J. Walberg
Supervisory Patent Examiner
Art Unit 3742

tw

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Director's Office
Group 3700

Timothy L. Ziolkowski/Kent L. Baker
Ziolkowski Patent Solutions Group, SC
14135 North Cedarburg Road
Mequon, WI 52097-1416

In re Application of: Saranathan et al.
Appl. No.: 09/728071
Filed: November 30, 2000
For: A METHOD FOR AUTOMATED MAPING OF VESSEL TRAJECTORIES FOR IMPROVED TRACKING IN CORONARY MR ANGIOGRAPHY

: DECISION ON PETITION

This is a decision on the petitions filed on 1) August 25, 2003 by which petitioners request supervisory review of the requirement for restriction under 37 CFR 1.144, and 2) March 24, 2006 by which petitioners request withdrawal of the holding of abandonment under 37 CFR 1.181. These petitions are considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fees are required. It is noted that petition 1) included an authorization to charge a $130 petition fee. Office records do not indicate such a charge has been made; accordingly no refund is due.

The 1.144 petition is granted.

The 1.181 petition is granted.

Review of the application and of the claims shows a non-final office action including a restriction requirement was issued on July 29, 2002. The restriction requirement separated 1) claims 1 – 17 as drawn to a method of imaging a moving object using MRI, from 2) claims 18 – 22 drawn to a MRI apparatus and 3) claims 23-28 drawn to a computer program (for tracking coronary artery movement via image data). Inventions 2) and 1) were allegedly related as product and process of use while inventions 2) and 3) were allegedly related as combination and sub-combination. Further, it was alleged should applicant elect invention 1), applicant was further subject to a requirement to elect from patentably distinct species of claims 1-8 directed to a method of MRI imaging and claims 9-17 directed to a method of coronary MR angiography. The record further shows an interview was held between petitioner and the examiner on September 29, 2002 where petitioner sought further clarification/withdrawal of the requirement, without success. The application became abandoned for an alleged lack of response on February 11, 2003 and was restored to pending status on May 8, 2003 when the September 30, 2002 election with traverse was matched with the file. In the election, petitioner elected group 1, claims 1-17, further elected the species of claims 1-8, and presented arguments against the propriety of the requirement for restriction. In the office action of July 9, 2003 the examiner

maintained the requirement, responded to petitioner's traverse, made the requirement final and issued a rejection of claims 1-8. On September 25, 2003, petitioner filed a response to the office action along with the petition under 37 CFR 1.144 addressed herein. This response appears in the paper file wrapper, albeit not entered into the PALM tracking system used by the Office.

Petitioner has, in his traversals, presented a lengthy and, in many instances, an essentially correct recitation of the reasons why the examiner's restriction requirement is not supported by the practice set forth in Chapter 800 of the Manual of Patent Examining Procedures. They are generally persuasive.

For example, the examiner opines that while claim 18 may be used with a moving object it may also be used on a non-moving object in support of the reasons for distinctness between method and apparatus. This argument, however, fails at least in that claim 18 requires the apparatus track and image a moving object of interest in that the object of interest is defined as moving, and the claim recites the apparatus "acquires a series of scout scans...as the object of interest *moves* from one position to another".

In support of the restriction between combination and sub-combination, the examiner defends that two way distinctness, as advanced by petitioner, is indeed present in that invention 3) has a separate utility as a computer program and further notes that that invention 3) requires a computer to track "coronary artery" movement while such is not required in the combination of invention 2). However, invention 2) does require the tracking of "object of interest" movement. That claims are of varying scope does not convert them into claims for different inventions.

Finally, the examiner defends the species requirement by submitting that since the methods do not have the same sequence of steps they are distinct. This position is untenable under MPEP 806.04(e) which states: "*Claims are definitions of inventions. Claims are never species. The scope of a claim may be limited to a single disclosed embodiment, or a claim may include two or more of the disclosed embodiments within the breadth and scope of the claim. Species are always the specifically different embodiments.*" Therefore, at a minimum the issuance of a species requirement via the listing of specific claims is improper. Species' of invention are defined via the disclosed embodiments. While claims 1 and 9 may recite distinct inventions, they are not distinct species of an invention and the examiner's provided reasons for insisting upon restriction are improper.

For at least the reasons outlined above, the restriction requirement as promulgated and made final is not in accordance with proper Office procedure. Accordingly, it is hereby vacated.

Turning now to the petition by which petitioner request withdrawal of the holding of abandonment under 37 CFR 1.181, petitioner request withdrawal by presenting an evidentiary copy of the prior response to the first office action rejection. As noted hereinabove, the original copy of the amendment/response to the July 9, 2003 office action is physically present in the paper file wrapper. It is apparent that the application was never in fact abandoned. Accordingly, the notice of abandonment mailed February 9, 2005 is hereby vacated and the holding of abandonment hereby withdrawn.

The application is being forwarded to the Head Supervisory Applications Examiner to reconcile the paper version of the application with the electronic version of the application contained in the Image File Wrapper System. This will include endorsement of all papers in the PALM system and restoration of the file status to pending. The HSAE will then forward the file to the examiner who will consider the outstanding response and promulgate an action not inconsistent with this Decision.

PETITIONS GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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Paper No.

ZIOLKOWSKI PATENT SOLUTIONS
GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON WI 53074

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Saranathan et al.	:	
Application No. 09/728,071	:	DECISION ON APPLICATION
Filed: November 30, 2000	:	FOR
Atty Docket No. GEMS8081.039	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed December 15, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand fifty-six (1056) days to one thousand two hundred seventy-nine (1279) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand two hundred seventy-nine (1279) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 4, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1056 days. On December 15, 2006, applicants timely submitted an application for patent term adjustment (with required fee)[1].

[1] PALM records indicate that the Issue Fee payment was received on December 19, 2006.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the notice of allowance are correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is one thousand two hundred seventy-nine (1279) days.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PTA Calculations for Application: 09/728071			
Application Filing Date:	11/30/2000	PTO Delay (PTO):	1177
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	121
Post-Issue Petitions:	0	Total PTA (days):	1279
PTO Delay Adjustment:	223		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	03/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		985	
54	03/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	939		
53	03/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	160		
52	03/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		12	
51	03/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	121		
44	12/04/2006	MAIL NOTICE OF ALLOWANCE			
43	11/27/2006	ISSUE REVISION COMPLETED			
42	11/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	11/27/2006	NOTICE OF ALLOWABILITY			
40	09/21/2006	DATE FORWARDED TO EXAMINER			
39	09/21/2006	RESPONSE AFTER NON-FINAL ACTION			
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37	07/10/2006	NON-FINAL REJECTION			
36	05/05/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
35	04/18/2006	DATE FORWARDED TO EXAMINER			
34	07/09/2003	RESPONSE AFTER NON-FINAL ACTION			
33	04/19/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
32	04/18/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
31	04/14/2006	PETITION TO REVIVE APPLICATION - GRANTED			
30	08/25/2003	PETITION ENTERED			
28	02/09/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
27	02/07/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			

26	05/28/2004	WORKFLOW INCOMING PETITION IFW			
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20	02/27/2003	RESPONSE TO ELECTION / RESTRICTION FILED		121	11
19	02/27/2003	MISCELLANEOUS INCOMING LETTER			
18	05/20/2003	NOTICE OF RESCINDED ABANDONMENT IN TCS			
17	05/08/2003	PETITION TO REVIVE APPLICATION - GRANTED			
16	02/27/2003	PETITION ENTERED			
15	02/11/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
14	02/10/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
13	10/02/2002	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
12	09/30/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
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10	07/26/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
9	05/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	05/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	06/25/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	02/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	01/22/2001	APPLICATION DISPATCHED FROM OIPE			
3	01/18/2001	CORRESPONDENCE ADDRESS CHANGE			
2	01/02/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/30/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Erik Hennum :
Application No. 09/728,073 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 07042-152001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 27, 2005.

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 (571) 272-3220.

This matter is being referred to Technology Center AU 2179.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: MICHAEL J. BUCHENHORNER
701 BRICKELL AVENUE, SUITE 3000
MIAMI, FL 33131

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SAN JOSE, CA 95141

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Erik HENNUM	:	
Application No. 09/728,073	:	DECISION ON PETITION
Filed: December 4, 2000	:	
Attorney Docket No. 07042-152001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 11, 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 12, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of August 11, 2006 is accepted as having been unintentionally delayed.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2179 for appropriate action by the Examiner in the normal course of business on the reply received March 8, 2007.

April Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL J. BUCHENHOMER
8540 S.W. 83 STREET
MIAMI, FL 33143

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Paper No. 11

SCHMEISER OLSEN & WATTS
3 LEAR LET LANE
SUITE 201
LATHAM, NY 12210

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OFFICE OF PETITIONS

In re Application of :
Rajendra Kumar Bera :
Application No. 09/728,096 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. JA999-704 :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a)must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(l); (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) for an application filed prior to June 8, 1995. This petition lacks item (3).

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that

the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

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. Quigg673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner's argument is not persuasive because petitioner has not provided sufficient documentation that the non-final Office action mailed June 27, 2003 was not received at the address of record at the time of mailing thereof; i.e., Ronald L. Drumheller, 94 Teakettle Spout Road, Mahopac, NY, 10541. A review of the record indicates that on February 1, 2002, Manny Schecter, an attorney designated in the declaration filed with the application, appointed T. Rao Coca and directed the Office to send all the communications to him at 650 Harry Road, San Jose, CA 95120. However, on August 6, 2002, T. Rao Coca, an attorney of record, filed a change of correspondence address to 94 Teakettle Spout Road, Mahopac, NY 10541. A review of the record indicates no irregularity in the mailing of the June 17, 2003 Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to the address of record at the time.

The unavoidable standard requires that petitioner establish that the entire delay in responding to the Office action was unavoidable. This requires that petitioner: 1) provide a statement that the Office action was not received; 2) attest to having searched the file jacket and docket records with no results, and 3) provide a copy of the docket records where the Office action would have been entered had it been received and docketed. See MPEP 711.03(c).

If petitioner cannot provide evidence of the nature required above or simply does not wish to, petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR

1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the $1,500.00 petition fee.

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 of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

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

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Paper No. 13

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OFFICE OF PETITIONS

In re Application of	:	
Rajendra Kumar Bera	:	
Application No. 09/728,096	:	ON PETITION
Filed: December 1, 2000	:	
Attorney Docket No. JA999-704	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 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 June 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 27, 2003 is accepted as having been unintentionally delay.

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

The application file is being forwarded to Technology Center AU 2122.

Wan Laymon
Petitions Examiner
Office of Petitions

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Shawn W. O'Dowd
KENYON & KENYON
333 West San Carlos Street
San Jose CA 95110

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OFFICE OF PETITIONS

In re Application of :
Hiller et al. :
Application No. 09/728,107 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket Number: 11324/10

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 15, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 16, 2004. A Notice of Abandonment was mailed on October 15, 2004.

This Petition is hereby **Granted**.

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 office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Shawn W. O'Doud
1500 K. Street, NW, Suite 700
Washington, DC 20005

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Paper No. 5

ARENT FOX KINTER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington DC 20036-5339

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SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of
Park, et al.
Application No. 09/728,117
Deposited: December 4, 2000
Attorney Docket No. 101190-00010
For: MULTI-CHANNELED LOOP HEAT TRANSFER DEVICE WITH HIGH EFFICIENCY FINS

: ON PETITION

This is a decision on the "REQUEST FOR RECONSIDERATION OF NOTICE OF TERMINATION OF PROCEEDING AND PETITION FOR FILING DATE," filed August 20, 2003. The petition will be treated under (1) 37 CFR 1.181 as a petition to withdraw termination of proceedings and (2) 37 CFR 1.53(e) as a petition to accord a filing date of December 4, 2000 to the above-identified application.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.53(e)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was deposited on December 4, 2000. On February 15, 2001, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice) stating that the application had not been accorded a filing date because it lacked a specification, at least one claim, and drawings, as is required by 35 USC 111(a)(2)(A)-(C). No response was received prior to the expiration of the two month period for reply set from the mail date of the February 15, 2001 Notice. Thus, the Office terminated proceedings. Notice of the termination of proceedings was mailed on May 29, 2003. The present petition was filed on August 20, 2003.

Petition under 37 CFR 1.181 to Withdraw Termination of Proceedings

Petitioner requests withdrawal of termination of proceedings based on non-receipt of the February 15, 2001 Notice.

A review of the record indicates no irregularity in the mailing of the February 15, 2001 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. 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.[1]

Petitioner has provided a statement that a thorough search of the file jacket and docket records was conducted and practitioner referenced a copy of the docket records where the non-received Office communication would have been entered had it been received. There is no mention of the February 15, 2001 Notice. Petitioner has shown that the February 15, 2001 Notice was not received at the address of record.

The petition under 37 CFR 1.181 to withdraw termination of proceedings is **granted**.

Petition under 37 CFR 1.53(e) to Accord a Filing Date of December 4, 2000

Petitioner requests that the above-identified application be accorded a filing date of December 4, 2000 on the basis that a specification, claims, and drawings were received in the Patent and Trademark Office (PTO) on December 4, 2000.

In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated barcode showing December 4, 2000 as the date of receipt. The postcard lists, *inter alia*, that the filing included 35 pages of new application, $395 in fees, a small entity declaration, an assignment, a declaration, a priority document, and 17 pages of drawings.

The date stamped postcard receipt constitutes *prima facie* evidence that 35 pages of new application were filed on December 4, 2000. MPEP 503. In fact, a review of the contents of the application reveals that there are at least 35 pages of application present as of December 4, 2000.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

However, these pages are part of a Korean priority document in Korean language. There are no English language pages of specification present.

Pursuant to 37 CFR 1.52(d), a nonprovisional application may be in a language other than English. If the Korean language priority document is a complete application under 37 CFR 1.53(b) and petitioner files a certified true and complete English translation of the Korean language priority document, as is required by 37 CFR 1.52(d)(1), the English translation of the Korean language priority document will be used as the application papers. In this manner, the application will be entitled to a December 4, 2000 filing date.

Petitioner must submit the $355 basic filing fee, as the fee (minus a $130 processing and retention fee) submitted on December 4, 2000 was subsequently returned. The $130 processing and retention fee will be allocated as the $130 processing fee for the submission of an English translation of the Korean application.

This application will be retained in the Office of Petitions.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

ARENT FOX KINTER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington DC 20036-5339

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OFFICE OF PETITIONS

In re Application of
Park, et al.
Application No. 09/728,117
Deposited: December 4, 2000
Attorney Docket No. 101190-00010
For: MULTI-CHANNELED LOOP HEAT TRANSFER DEVICE WITH HIGH EFFICIENCY FINS

: DECISION GRANTING
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed September 29, 2003.

The application was deposited on December 4, 2000. On February 15, 2001, the Office of Initial Patent Examination mailed a Notice informing petitioners that a filing date had not been accorded to the application papers deposited on December 4, 2000 because the specification and drawings were missing.

Petitioners request that the application be accorded a filing date of December 4, 2000 on the basis that a specification, including claims, and drawings were received in the Patent and Trademark Office (PTO) on December 4, 2000. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 4, 2000 as the date of receipt. The postcard lists, *inter alia*, that the filing included 35 pages of new application, $395 in fees, a small entity declaration, an assignment, a declaration, a priority document, and 17 pages of drawings.

The copy of the postcard receipt submitted by petitioners does not contain an annotation that any of the initial filing was missing. This means that the initial reviewer found the initial filing matched what was listed on the postcard receipt. A review of the original transmittal page found in the application file reveals that there is an Office stamp affixed thereto that states "The PTO did not receive specification, claims, and drawings." The Office stamp on the transmittal page was affixed after the initial reviewer found the initial filing matched what was listed on the postcard receipt. Petitioners have provided a statement that the 35 pages of application listed on the postcard are English language specification and claims, not a Korean language specification and claims. While the postcard receipt is not sufficiently detailed with respect to the specification and claims, the preponderance of the evidence points to the conclusion that 35 pages of English language

application and 17 pages of drawings were received in the Office on December 4, 2000 and then subsequently misplaced.

Accordingly, the request is **GRANTED**.

Regarding finances, petitioners paid the $355 basic filing fee on December 4, 2000. The Office retained a $130 processing fee and refunded $225 on May 29, 2003. Petitioners have shown that the application was complete upon filing. Thus, the $130 processing fee will be applied towards the $355 basic filing fee. Pursuant to petitioners' authorization, deposit account no. 01-2300 will be charged $225, which is the balanced owed for the basic filing fee. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **December 4, 2000**, using the 35 pages of specification and claims and the 17 pages of drawings resubmitted with the initial petition on August 20, 2003. OIPE will mail a filing receipt in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

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Technology Center 2100

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

In re Application of:
Paul NADJ, et al.
Application No. 09/728,147
Filed: November 28, 2000
For: DATA STRUCTURE AND METHOD FOR SORTING USING HEAP-SUPERNODES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed July 15, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla LLP as the attorney (s) of record of the instant application. The Power of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: Martine & Penilla LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

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. 8

Altera Law Group, LLC
6500 City West Parkway
Suite 100
Minneapolis, MN 55344-7704

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Hiroshi Nomura et al. :
Application No. 09/728,153 : ON PETITION
Filed: December 2, 2000 :
Attorney Docket No. 01875.0005-US-01 :

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

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed December 19, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 20, 2003. A Notice of Abandonment was mailed on July 1, 2003.

The 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

Andrew S. Marks
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242

COPY MAILED

JUN 23 2004

OFFICE OF PETITIONS

In re Application of :
Kuida :
Application No. 09/728,173 : ON PETITION
Filed: December 1, 2000 :
For: CASPASE-9 DEFICIENT ANIMALS :
AND THE USE THEREOF :

This decision is in response to the petition under 37 C.F.R. § 1.137(b) filed April 28, 2004.

The petition is GRANTED.

This application became abandoned May 8, 2001 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed March 7, 2001. The Notice set a two month shortened statutory period of time for reply. No petition for an extension so time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment May 23, 2003.

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).

As to item (1), petitioner has submitted the required declaration and surcharge. Review of the application file does not indicate submission of Figure 7 referenced in the Notice. Accordingly, failure to timely file a petition as set forth in the Notice will be treated as constructive acceptance of the application as deposited in the PTO.

As to item (2), the required petition fee and surcharge have been charged to petitioner's deposit account as authorized in the instant petition.

As to item (3), the required statement of unintentional delay was included with the instant petition.

Item (4) is inapplicable to the instant application.

Hence, the petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice is accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions 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)
6533082	2003-03-18	09728174	2000-12-01	00-26

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	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	/Dean B. Watson/	Date (YYYY-MM-DD)	2009-01-16
Name	Dean B. Watson	Registration Number	43242

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. 6533082
Issue Date: March 18,2003
Application No. 09728174
Filed: December 1,2000
Attorney Docket No. 3993968-126973

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

This is a decision on the electronic petition, filed January 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

William A. Teoli Jr.
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro NC 27409

COPY MAILED

JUN 30 2003

OFFICE OF PETITIONS

In re Application of :
BOEGER et al. :
Application No. 09/728,184 : ON PETITION
Filed: December 2, 2000 :
Attorney Docket No. PI/5-30449A/C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed February 5, 2001, which set a two-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on April 6, 2001. A Notice of Abandonment was mailed on May 29, 2003.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

The $130.00 surcharge for late filing of the declaration will be charged to Deposit Account No. 50-1676, as authorized in the petition.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Mark G. Crawford, et. al. :
Application No. 09/728,187 : DECISION ON PETITION
Filed: December 1, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SST/1083 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 2, 2003 and supplemented on August 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed on August 8, 2007.

The petition is **GRANTED**.

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, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3635 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/728,187	12/01/2000	3633	1760	SST/1083	25	4

CONFIRMATION NO. 4508

CORRECTED FILING RECEIPT

498
JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

Date Mailed: 02/20/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mark G. Crawford, Visalia, CA;
Steven E. Pryor, Dublin, CA;
Alfred D. Commins, Friday Harbor, WA;

Power of Attorney:
James Cypher--22448
Charles Cypher--41694

Domestic Priority data as claimed by applicant

This application is a CIP of 09/487,981 01/20/2000
and is a CIP of 09/692,674 10/18/2000 ABN
which is a CIP of 09/487,981 01/20/2000
which is a CON of 08/920,417 08/29/1997 PAT 6,109,850
which is a CON of 08/725,003 10/01/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 01/12/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/728,187**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SCREW FASTENER IN MULTIPLE FLOOR TRUSS AND WOOD-TO-WOOD SHEAR CONNECTION

Preliminary Class

052

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON , MA 02110

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SEP 5 2001

OFFICE OF PETITIONS

In re Application of :
Richard G. Ogier :
Application No. 09/728,192 : DECISION GRANTING PETITION
Filed: December 1, 2000 :
Attorney Docket No. SRI-009C :

This is a decision on the petition filed April 2, 2001, requesting that a "Notice to File Corrected Application Papers" mailed February 22, 2001, be vacated and the filing date of December 1, 2001, accorded the above-cited application, be retained.

On December 1, 2000, the above-identified application was filed. On February 22, 2001, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" (the "Notice"), stating that the application had been accorded a filing date of December 1, 2000, and advising applicant that Figure 16, as described in the specification, appeared to be missing.

In response, on April 2, 2001, applicant filed the present petition, one drawing containing Figure 16 , a copy of the return postcard date-stamped by the Patent and Trademark Office (the "Office") on December 1, 2001, acknowledging receipt of twenty sheets of drawings, a copy of Express Mail receipt EL69235085US (which corresponds to the Express Mail number found on the application papers filed December 1, 2001), and remitted the petition fee of $130.00.

Upon review of the record, twenty sheets of drawings were found, including a figure labeled "16", deposited December 1, 2000, were located among the application papers. Applicant is advised that all language in the Notice relative to applicant's failure to file "Figure 16" and the consequences thereof is erroneous and such language is hereby vacated. Therefore, no petition fee is necessary and the fee of $130.00 will be refunded, in due course.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 1, 2000.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

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, DC 20231
www.uspto.gov

Paper No. 7

MAILED

AUG 0 8 2001

Technology Center 2100

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO , CA 94303

In re Application of: M. Hendrickson et al.
Application No.: 09/728,250
Filed: November 30, 2000
For: ONLINE GUIDED RESUME CREATION SYSTEM THAT ALLOWS DYNAMIC STYLE FORMATTING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 13, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special.

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

Applicant's submissions meet all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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UNIVATION TECHNOLOGIES
5555 SAN FELIPE, SUITE 1950
HOUSTON, TX 77056

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Brant Patrick et al :
Application No. 09/728,267 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. 2000U039.US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2004.

The petition under 37 CFR 1.137(b) is **DISMISS AS MOOT** for the reasons stated below.

A review of the file record discloses that a non-final Office action was mailed on June 1, 2004, setting a one month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. A reply received by the USPTO on June 10, 2004. Therefore, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

The petition fee of $1,330.00 is being credited to petitioner's Deposit Account No. 50-0589.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1755.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

HELLER EHRMAN WHITE & McAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-33506

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Jian Zhang et al
Application No. 09/728,309
Filed: November 30, 2000
Attorney Docket No. 18136-1050

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed March 28, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The petition indicates that the instant nonprovisional application is the subject of an application filed in a foreign country on November 30, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of September 5, 2002 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 1646 for appropriate action in the normal course of business on the "Response to Restriction Requirement," received on April 12, 2002 (certificate of mailing date of March 29, 2002.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/23/2010

Applicant	: Tom Vicknair	: DECISION ON REQUEST FOR
Patent Number	: 7584125	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/728,340	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1623** 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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DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Gerald Alan Lynch	:	
Application No. 09/728,356	:	DECISION GRANTING PETITION
Filed: December 1, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 372499-00101	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 26, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 18, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2164 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
Petitions Examiner
Office of Petitions

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

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Alexandria, VA 22313-1450
www.uspto.go

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

JUL 18 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
YEE, TING K
Application No. 09/728373
Filed: November 28, 2000

For: OPTICAL COMMUNICATIONS USING HETERODYNE DETECTION

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 15, 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 met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw 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.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-6988

Cc: CORA FEDORNOCK
BERKELEY LAW & TECHNOLOGY GROUP, LLC
FIVE PALO ALTO SQUARE
1758-114TH AVENUE SE
SUITE 110
BELLUVUE, WA 98004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Larry O'Rourke
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005

MAIL

MAY 0 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

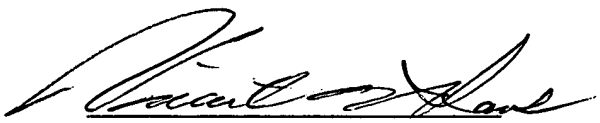
In re Application of:)
Christopher Ryall Wallace)
Application No. 09/728,434) **DECISION ON REQUEST FOR**
Filed: December 1, 2000) **WITHDRAWAL AS ATTORNEY**
For: METHOD FOR PROVIDING)
STREAMING MEDIA DATA IN A
NETWORK-BASED
ENVIRONMENT

This is a decision on the Request To Withdraw from Representation filed February 13, 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 February 13, 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: Mr. Christopher R. Wallce
DIGITAL PIPE, INC.,
1155 Trinton Drive, Suite C,
Foster City, CA 94404

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 02-05

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of :
Young et al. :
Application No. 09/728,471 : ON PETITION
Filed: 30 November, 2000 :
Attorney Docket No. CITI0207 :

This is a decision on the petition, styled under 37 CFR 1.47(a) and filed on 10 December, 2004, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

This application was filed on 30 November, 2000, and named Alan Young, Philip Chapman, and Robert Berardy as joint inventors was filed on 16 March, 2001.

On 10 December, 2004, the present petition, along with a declaration under 37 CFR 1.131 signed by joint inventor Young, was filed.

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[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

Petitioners state that a copy of the declaration under 37 CFR 1.131 was sent to both non-signing inventors at their former work addresses, but that no response was received. Petitioners additionally state that they have been informed that the non-signing inventors no longer are employed by assignee Citibank, N.A., ("Citibank") and that their current whereabouts are unknown.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioners' showing is deficient in that proof of diligent efforts to locate Chapman and Berardy have not been made.[2] Specifically, the last known addresses of the non-signing inventors are their work addresses at Citibank. Obviously, if Chapman and Berardy no longer work at Citibank, petitioners cannot reach them at said addresses. Moreover, petitioners have not shown what steps have been taken to determine the current addresses of the joint inventors. Petitioners may wish to consult telephone or Internet directories, *inter alia*, in an attempt to locate the non-signing inventors and send them copies of the declaration under 37 CFR 1.131.

Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts having first-hand knowledge of the details.

If a more recent address is discovered for either or both of the inventors, petitioners should send the declaration to the inventor(s) at that address. If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor(s)

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[2] MPEP 409.03(d).

refuse in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) cannot be located.

It is additionally noted that the fee for a petition under 37 CFR 1.183 is $400.00, rather than $200.00.[3] As such, counsel's deposit account, No. 50-1428, will be charged the additional $200.00 as authorized in the present petition.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[3] See 37 CFR 1.17(f).

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KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Young et al. :
Application No. 09/728,471 : ON PETITION
Filed: 30 November, 2000 :
Attorney Docket No. CITI0207 :

This is a decision on the renewed petition under 37 CFR 1.183 filed on 14 June, 2005, which is being treated as a petition seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **granted**.

In view of the efforts recounted to obtained the signatures of joint inventors Philip Chapman, and Robert Berardy , it is agreed that justice would be served by waiving the requirement for their signature on the declaration filed under 37 CFR 1.131.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The application is being referred to Technology Center Art Unit 3627 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Woods et al.	:	DECISION ON PETITION
Application No. 09/728,524	:	TO WITHDRAW
Filed: December 1, 2000	:	FROM RECORD
Attorney Docket: 17887-004910US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Morrison & Foerster LLP, was revoked as power of attorney by the assignee of the patent application on April 21, 2010. 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 the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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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U.S. PATENT OPERATIONS/RNM
DEPT. 4300, M/S 27-4-A
AMGEN INC.
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Goldenberg et al. :
Application No. 09/728,534 : ON PETITION
Filed: November 28, 2000 :
Attorney Docket No. A-576C :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 12, 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 September 5, 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 November 6, 2003. See MPEP 1215.04. A Notice of Abandonment was mailed on April 24, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

cc: WILLIAM K. MERKEL
MARSHALL, GERSTEIN & BORUN, LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606-6357

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COMMISSIONER FOR PATENTS
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
09/728,574	11/30/2000	Joseph A. Sorge	25436/1660

CONFIRMATION NO. 4345

FORMALITIES LETTER

OC000000006267528

Kathleen Madden Williams, Ph.D
Palmer & Dodge, LLP
One Beacon Street
Boston, MA 02108

Docketed Doeer
Response Due Resp to NFMP
Statutory Period 9/6/01 (1/6/02 final)
Palmer & Dodge LLP
Patent Department

Date Mailed: 07/06/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/11/2001 SMIHAS51 00000007 160085 09728574

01 FC:201	370.00 OP
02 FC:203	356.00 OP
03 FC:202	168.00 OP
04 FC:204	140.00 OP
05 FC:205	65.00 OP

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 $ **355** *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 $691.
  - **$396** for **44** total claims over 20.
  - **$160** for **4** independent claims over 3 .
  - **$135** for multiple dependent claim surcharge.
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1111.**

RECEIVED
JUL 13 2001
Palmer & Dodge, LLP
Patent Department

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention

is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
OCT 05 2001
PATENT & TRADEMARK OFFICE

Express Mail Label No.: EL728731534US
Date of Deposit: October 5, 2001

Atty. Docket No.: 25436/1660 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Joseph Sorge and Anne Whalen	Examiner:	Not Yet Assigned
Serial No.:	09/728,574		
Filed:	November 30, 2000	Group Art Unit:	1645
Entitled:	"Methods for Detection of a Target Nucleic Acid by Capture"	Conf. No.:	4345

Box: Missing Parts
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION

Sir:

This is filed in response to the Notice to File Missing Parts of Non-Provisional Application mailed July 6, 2001.

1. The Notice stated that the basic filing fee and additional claims fee is missing. A check is enclosed in the amount of $1,111.00 which includes:

a) $355.00 basic filing fee for small entity;
b) $65.00 declaration surcharge;
c) $396.00 for 44 claims over 20;
d) $160.00 for 4 independent claims over 3; and
e) $135.00 for multiple dependent claim surcharge.

2. The Notice stated that the Declaration is unsigned.

An executed Declaration/Power of Attorney is enclosed.

3. The Notice stated that substitute drawings are required because the informal drawings do not meet the margin requirements.

Substitute drawings with margins of at least 2.5 cm (top), 2.5 cm (left), 1.5 cm (right) and 1.0 cm (bottom) is submitted herewith.

4. The Notice stated that an initial computer readable copy of the Sequence Listing and a paper copy of the Sequence Listing was not submitted.

5. The Notice stated that a statement under 37 C.F.R. 1.821 is required.

Applicant submits an Amendment which includes a statement under 37 C.F.R. 1.821.

A computer readable copy and a paper copy of the Sequence Listing in enclosed.

Respectfully submitted,

Date: October 5, 2001

Name: Kathleen M. Williams
Registration No.: 34,380
Palmer & Dodge LLP
One Beacon Street
Boston, MA 02108
Tel: 617-573-0100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PALMER & DODGE
KATHLEEN M. WILLIAMS / STR
111 HUNTINGTON AVENUE
BOSTON, MA 02199

COPY MAILED

JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Sorge et al :
Application No. 09/728,574 : DECISION ON PETITION
Filed: November 30, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 25436/1660 :

This is a decision on the petition, filed April 18, 2005, 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 applications 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 item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is

not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required. Petitioner is advised that the amendment must be submitted as a separate paper in compliance with 37 CFR 1.121, 1.52, or 1.4(c).

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

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

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

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

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

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

PALMER & DODGE
KATHLEEN M. WILLIAMS / STR
111 HUNTINGTON AVENUE
BOSTON, MA 02199

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Sorge et al :
Application No. 09/728,574 : DECISION ON PETITION
Filed: November 30, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 25436/1660 :

This is a decision on the renewed petition, filed July 1, 2005, 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 applications set forth in the amendment filed November 10, 2005.

The petition is **GRANTED**.

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, 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1634 for appropriate action on the amendment filed November 10, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92660

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OCT 0 4 2001

OFFICE OF PETITIONS

In re Application of	:
Schiff et al.	: DECISION REFUSING STATUS
Application No. 09/728,583	: UNDER 37 CFR 1.47(a)
Filed: December 1, 2000	:
Attorney Docket No. TRAVL.017A	:
For: SYSTEMS AND METHODS OF	:
COMPARING PRODUCT INFORMATION	:

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 27, 2001.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

The above-identified application was filed on December 1, 2000. On may 10, 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 §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

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR 1.63.

declaration. To make timely this reply, a two-month extension of time was charged to counsel's Deposit Account, as authorized. On August 27, 2001, in reply to an Office inquiry, petitioner filed the following documents: several declarations executed by attorney James Bear regarding non-signing inventors Adolf Quintana, Monica Scanlon, Paul Colangelo, Timothy Moorhead, Fred Locicero, and Maryann Bastnagel; a declaration executed by Rexford Johnson regarding non-signing inventor Paul Colangelo; a declaration executed by Tammy Chappell regarding nonsigning inventor Timothy Moorhead, and; a declaration executed by Amy C. Christensen regarding non-signing inventor Fred Locicero. Also included was a power of attorney form, a copy of the assignment[2], and a declaration executed by the signing inventors.

On petition and via a plurality of declarations, Attorney James Bear described the facts relied on to conclude that the inventors refuse to sign, including each inventor's failure to respond to the request that he/she sign the declaration. Accompanying Attorney Bear's statement is the following supporting documentary evidence: (1) the cover letters of April 2, 2001, April 10, 2001, April 25, 2001, and July 20, 2001, each addressed to Mr. Quintana's last known address; (2) the e-mail from Mr. Quintana where he acknowledged receipt of the letters and expressed his intent not to sign the relevant documents; (3) the cover letters of December 13, 2000, April 5, 2001, April 25, 2001, and July 20, 2001, each addressed to Ms. Scanlon's last known address; (4) the cover letters of December 13, 2000, April 5, 2001, April 25, 2001, and July 20, 2001, each addressed to Mr. Colangelo's last known address; (5) the declaration of Rexford Johnson which states that in a telephone conversation, Mr. Colangelo informed the declarant that he would not sign the declaration or assignment documents; (6) an e-mail from Mr. Colangelo to Mr. Johnson which states his intent not to sign; (7) the cover letters of December 13, 2000, April 5, 2001, April 25, 2001, and July 20, 2001, each addressed to Timothy Moorhead's last known address; (8) the declaration of Tammy Chappell which states that she sent a package to the Mr. Moorhead on January 22, 2001; (9) the declaration of Amy Christensen which states that she spoke with Mr. Locicero and was informed that he would not sign the declaration or assignment documents until Travel Services International provided him with a copy of his employment contract; (10) the cover letters of December 18, 2000, April 5, 2001, April 25, 2001, each sent to Ms. Bastnagel, a statement from Mr. Bear which discusses his dealings with Ms. Bastnagel's attorney as well as several letters concerning this dialog, and; (11) the cover letters of December 13, 2000, April 4, 2001, April 25, 2001, and July 20, 2001, each addressed to Mr. Locicero's last known address.

Petitioner has met requirements (1) - (3) and (6). While the submission is extensive, it lacks the declaration of Amy Christensen as to her actions involving many of the non-signing inventors. In many of the declarations by attorney Bear, he states that he instructed Ms. Christensen to send letters, make phone calls, initiate Internet searches, etc. Ms. Christensen must be the one to attest to these actions, not Mr. Bear, as he is not the one with first hand knowledge.

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

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[2] The assignment has been forwarded to the Assignment Division for consideration. (A copy is retained in the application file.)

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

Telephone inquiries specific to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

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

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MAR 2 5 2002

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92660

In re Application of
Schiff et al.
Application No. 09/728,583
Filed: December 1, 2000
Attorney Docket No. TRAVL.01
Title: SYSTEMS AND METHODS OF COMPARING PRODUCT INFORMATION

DECISION ON RENEWED PETITION UNDER UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a)[1], filed December 18, 2001.

The renewed petition under 37 C.F.R. §1.47(a) is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Second Renewed Petition under 37 CFR 1.47(a)."

The above-identified application was filed on December 1, 2000. On May 10, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application -

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply.

The original petition, filed on August 27, 2001, was dismissed in a decision mailed on October 4, 2001, for failure to establish requirements (4) and (5) above. At the time, Petitions Attorney failed to notice that signing inventors Bastnagel and Berk have made non-initialed and non-dated alterations have been made to the oath or declaration[2]. Therefore, the petition should have been dismissed for failing to meet requirement (6) above as well.

With the present petition, the petitioner has rectified the shortcomings pertaining to requirements (4) and (5) above.

With the second renewed petition, Petitioner should either provide a new oath or declaration, signed by inventors Bastnagel and Berk, with these changes incorporated, or have them initial and date the handwritten changes.

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 regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

E. Shirene Willis for

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

---

2 See 37 CFR 1.52(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92614

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Schiff et al. :
Application No. 09/728,583 :
Filed: December 1, 2000 :
Attorney Docket No. TRAVL.01 :
Title: SYSTEMS AND METHODS OF :
COMPARING PRODUCT :
INFORMATION :

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the second renewed petition under 37 CFR §1.47(a)[1], filed September 30, 2002, which contains a certificate of mailing dated September 24, 2002.

On August 27, 2001, the original petition was filed, which was dismissed via a petition mailed on October 4, 2001. On December 18, 2001, a renewed petition was filed, which was dismissed via a decision mailed on March 25, 2002.

With this second renewed petition, petitioner has submitted a supplemental declaration, correcting the previously indicated deficiencies. It is noted that a four-month extension of time was required in submitting this petition, yet none was requested. The corresponding fee of $1,440.00 has been charged to petitioner's Deposit Account, as authorized in the petition.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

The petition under 37 C.F.R. §1.47(a) is GRANTED.

The above-identified application was filed on December 1, 2000. The declaration was not executed by joint inventors Adolf Quintana, Monica Scanlon, Paul Colangelo, Timothy Moorhead, Fred Locicero.

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

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Monica Scanlon
401 East 76th Street
New York, New York 10011

In re Application of
Schiff et al.
Application No. 09/728,583
Filed: December 1, 2000
Attorney Docket No. TRAVL.01
Title: SYSTEMS AND METHODS OF COMPARING PRODUCT INFORMATION

LETTER

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MAR 1 4 2003

OFFICE OF PETITIONS

Dear Ms. Scanlon:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 the undersigned at (703) 305-0011. 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).

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paul Colangelo
67 Laura Drive
Airmont, NY 10952

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Schiff et al.
Application No. 09/728,583
Filed: December 1, 2000
Attorney Docket No. TRAVL.01
Title: SYSTEMS AND METHODS.OF
COMPARING PRODUCT INFORMATION

LETTER

Dear Mr. Colangelo:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 the undersigned at (703) 305-0011. 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).

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy M. Moorhead
4968 Razorback Run
Syracuse, NY 13215

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Schiff et al.
Application No. 09/728,583
Filed: December 1, 2000
Attorney Docket No. TRAVL.01
Title: SYSTEMS AND METHODS OF COMPARING PRODUCT INFORMATION

LETTER

Dear Mr. Moorhead:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 the undersigned at (703) 305-0011. 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).

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Fred Locicero
73 Richmond Boulevard
Unit 3B
Ronkonkoma, NY 11779

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Schiff et al.
Application No. 09/728,583
Filed: December 1, 2000
Attorney Docket No. TRAVL.01
Title: SYSTEMS AND METHODS OF COMPARING PRODUCT INFORMATION

LETTER

Dear Mr. Quintana:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 the undersigned at (703) 305-0011. 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).

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

KNOBBE MARTENS OLSON & BEAR LLP
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NEWPORT BEACH , CA 92614

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Paper No. 13

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Moshe Tamir, et al. :
Application No. 09/728,613 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. 2315/0H316 :

This is a decision on the petition, filed May 18, 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 September 3, 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 April 19, 2004. On May 18, 2004, an amendment, petition for extension of time and the present petition were filed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The petition is **GRANTED**.

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 2173 for consideration of the amendment filed May 18, 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 22313-1450
WWW.USPTO.GOV

Paper No. None

Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Arlindo L. Castelhano et al. :
Application No. 09/728,616 : DECISION ON PETITION
Filed: December 1, 2000 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: :
1919/60390-G/JPW/GJG/CMR :
Title: COMPOUNDS SPECIFIC TO :
ADENOSINE A3 RECEPTOR AND USES :
THEREOF :

This is a decision on the petition filed on August 1, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 10, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on November 11, 2005. A Notice of Abandonment was mailed on June 2, 2006.

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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.

2 See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition, issue, and publication fees, along with the proper statement of unintentional delay. A terminal disclaimer is not required.

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

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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[3]. 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[4]. All other inquiries

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3 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).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is

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: Kim Nguyen
OSI Pharmaceuticals INC
58 S Service Rd Ste 110
Melville, NY 11747

---

reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 05-03

Paper No: 12

ROBERT B. HUGHES
HUGHES & SCHACHT, PLLC
2801 MERIDIAN STREET
SUITE 1
BELLINGHAM WA 98225-2412

COPY MAILED

MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of:
Blum
Filed: 1 December, 2000
Application No. 09/728,633
Docket No.: P113414

ON PETITION

This is a decision on the petition filed herein on 30 January, 2003, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application, and the subsequent request filed on 6 May (and supplemented on 7 May), 2003, that the petition be withdrawn as improvidently filed.

For the foregoing reason the instant petition is **DISMISSED as moot**.[2]

This application is being forwarded to Technology Center 2600 for further processing.

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

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

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

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

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

[2] The petition fee ($650.00) previously paid is being refunded via Treasury check.

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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FEB 09 2005

OFFICE OF PETITIONS

In re Patent No. 6,774,212	:	DECISION ON REQUEST FOR
Wei Han	:	RECONSIDERATION OF
Issue Date: August 10, 2004	:	PATENT TERM ADJUSTMENT
Application No. 09/728,653	:	and
Filed: December 1, 2000	:	NOTICE OF INTENT TO
Attorney Docket No. PH-7118	:	ISSUE CERTIFICATE OF
	:	CORRECTION
	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT," filed September 20, 2004. This request is properly considered pursuant to 37 CFR 1.705(d). Patentees request that a 41 day reduction be removed and the term be re-adjusted to 164 days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred sixty-four **(164)** days.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On August 10, 2004, the above-identified application matured into U.S. Patent No. 6,774,212. The instant request for reconsideration was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 107 days. Patentee states that the term was reduced by 41 days due to "Workflow _ Drawings Finished" which is incorrect as there are no drawings in this case.

Patentee's argument is well-taken. There are no drawings in this application. No drawings were required and no drawings were filed after the mailing of the notice of allowance. Nor was any other paper warranting a reduction of the PTA filed after the mailing of the notice of allowance. The entry of a period of adjustment of 41 days was made in error.

Moreover, a review of the record reveals that due to printer error the patent issued without an additional period of adjustment of 16 days for Office delay in issuing the patent. The patent issued on August 10, 2004, three years and 253 days after its filing date. The period of delay under 35 U.S.C. 154(b)(1)(B) and § 1.702(b) is 253 days. See § 1.703(b).

However, 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). In this instance, 237 of the 253 days of delay attributable to the delay in issuance of the patent overlap with the periods of delay totaling 237 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(4). The remaining non-overlapping period of adjustment of 16 days was entered in the application to reach a period of adjustment of 253 days, the actual number of days of delay. However, due to printing error, the additional 16 days was not reflected in the revised Patent Term Adjustment shown on the patent.

Given the removal of the 41 day period of reduction and the reinstatement of the 16 day period of adjustment, the patent term adjustment indicated in the patent should be one hundred sixty-four **(164)** days (253 - 89).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred sixty-four (164)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

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

SIDLEY AUSTIN BROWN & WOOD LLP
555 West Fifth Street
Los Angeles, CA 90013-1010

MAILED

FEB 02 2005

Technology Center 2100

In re Application of:
Eric T. BAX, et al.
Application No.: 09/728,689
Filed: December 1, 2000
For: TECHNIQUE FOR EXTRACTING DATA FROM STRUCTURED DOCUMENTS

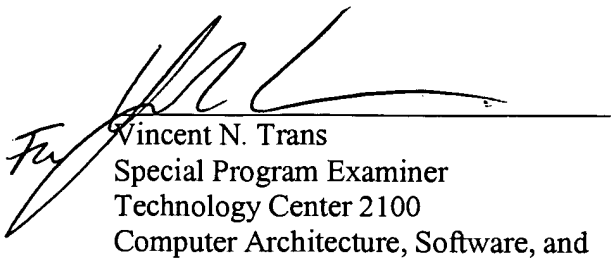
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 10, 2004 and the Supplemental Request to Withdraw from Representation filed September 13, 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: Mr. Eric Bax
iSpheres Corporation
640 Third Street
Oakland, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Mr. Eric Bax
iSpheres Corporation
640 Third Street
Oakland CA 94607

In re Application of
Bax, et al.
Application No. 09/728,689
Filed: December 1, 2000
Docket No.: INFOS 45077

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 1, 2005 for failure to timely reply to the non-final Office action mailed January 31, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed March 3, 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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The correspondence address on the petition differs from that contained in the official record. The change of correspondence address submitted with the instant petition fails to indicate the address or customer number that applicants' desire future correspondence be sent. Accordingly, all future correspondence will be directed to the address contained in the official record until proper instruction to the contrary is received.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: DAVID VOLEJNICEK
Avaya INC.
1300 W. 120th Ave
Westminster, CO 80234

UNITED STATES PATENT AND TRADEMARK OFFICE

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Swernofsky Law Group PC
PO Box 390013
Mountain View, CA 94039-0013

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OFFICE OF PETITIONS

In re Application of Muhlestein :
Application No. 09/728,701 :
Filing Date: December 1, 2000 :
Attorney Docket No. 103.1056.01 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2005, 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 January 7, 2005. A three month extension of time was obtained and an amendment was filed on July 14, 2005 (Certificate of Mailing date of July 7, 2005). The amendment did not prima facie place the application in condition for allowance. Accordingly, this application became abandoned at midnight on July 7, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The payment for a three month extension of time submitted with the petition is unnecessary and will be refunded to petitioner's credit card.

Technology Center Art Unit 2131 will be informed the application has been revived so that the examiner can consider the Request for Continued Examination and other papers in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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RUPAK NAG
4406 OAKLAND AVE
MINNEAPOLIS MN 55407

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Wenzel, et al. :
Application No. 09/728,704 : ON PETITION
Filed: November 30, 2000 :
Attorney Docket No. ZD-P001 :

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed October 26, 2006.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The application became abandoned for failure to file a proper response to the final Office action mailed September 26, 2005. No reply having been received, the application became abandoned on December 27, 2005. A Notice of Abandonment was mailed on June 7, 2006. Applicants filed a petition to revive on July 21, 2006. However, the petition was dismissed in a decision mailed on October 16, 2006, because applicants did not include the correct application number on the petition.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition does not meet requirement (1). The Examiner has review the amendment and determined that it does not prima facie place the application in condition for allowance. On renewed petition, petitioner must submit a proper reply in response to the final Office action. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Express Mail Label No. EL 735274790 US
Date of Deposit: August 9, 2001

Attorney Docket No. 21272-048CIP2C
(Formerly 790CIP2C)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Y. Tom Tang et al.
ASSIGNEE:	Hyseq, Inc.
SERIAL NO.:	09/728,711
FILING DATE:	November 30, 2000
FOR:	Novel Nucleic Acids and Polypeptides

August 9, 2001
Boston, Massachusetts

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Responsive to the Notice to File Missing Parts of Nonprovisional Application dated March 19, 2001, Applicants' attorney submits herewith two Executed Combined Declarations and Power of Attorney for the above-identified patent application. A separate petition for an extension of time is being filed concurrently herewith. A copy of the Notice to File Missing Parts of Nonprovisional Application is also enclosed.

Please charge any underpayments or credit any overpayments associated with this

communication to our Deposit Account No. 50-0311, Reference No. 21272-048CIP2 (Formerly 790CIP2C. A duplicate of this letter is enclosed.

Respectfully submitted,

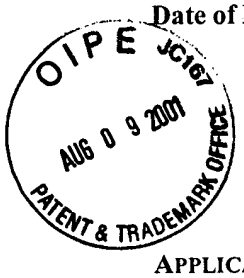
Ivor R. Elrifi, Reg. No. 39,529
Cynthia A. Kozakiewicz, Reg. No. 42,764
Attorneys for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

Dated: August 9, 2001

TRA 1553562v1

15 08-10-01 # Sector

Express Mail Label No. EL735274790US
Date of Deposit: August 9, 2001



Attorney Docket No. 21272-048CIP2C
(Formerly 790CIP2C)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Y. Tom Tang et al.
ASSIGNEE:	Hyseq, Inc.
SERIAL NO.:	09/728,711
FILING DATE:	November 30, 2000
FOR:	Novel Nucleic Acids and Polypeptides

August 9, 2001
Boston, Massachusetts

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231
August 9, 2001

TRANSMITTAL LETTER

Transmitted herewith for filing in the present application are the following documents:

1. Response to Notice To File Missing Parts dated March 19, 2001 (in duplicate);
2. Two Executed Combined Declarations And Power of Attorney For Patent Application;
3. Petition For Three-Month Extension of Time (in duplicate);
4. A Copy of Notice To File Missing Parts of Nonprovisional Application;
5. A Check in the amount of $445.00, Check #9785 (for extension fee); and
6. Return Receipt Postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at 617/542-6000, Boston, Massachusetts.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to our Deposit Account No. 50-0311, Attorney Reference No. 21272-006CIP2 (Formerly 784CIP2). A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Ivor R Elrifi, Reg. No. 39,529
Cynthia A. Kozakiewicz, Reg. No. 42,764
Attorney for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

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COMMISSIONER FOR PATENTS
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
09/728,711	11/30/2000	Y. Tom Tang	~~790CIP2C~~ 21272-048CIP2C

FORMALITIES LETTER

OC000000005874943

Leslie A. Mooi
Hyseq Inc
670 Alamanor Avenue
Sunnyvale, CA 94085

✓ 5/19, 10/19 NL

Date Mailed: 03/19/2001

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 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 balance due by applicant is $ 65.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

09/20/2001 YGIZAW 00000003 500311 09728711
01 FC:205 65.00 CH

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MINTZ LEVIN, BOSTON
PATENT DOCKET DEPT.

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PAPER NO.

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Yengoyan et al.	:	
Application No. 09/728,723	:	LETTER REGARDING
Filed: November 30, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
060825-5003 US	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 22, 2005. Applicants disclose that the initial determination of patent term adjustment in the above-identified application should be corrected from five hundred sixty-one (561) days to five hundred thirty (530) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **five hundred thirty (530)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 24, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 561 days. Applicants assert that the patent term adjustment does not reflect a reduction of 31 days for applicant's filing of a Request for Continued Examination (RCE) on November 8, 2004, three months and 31 days after the mailing date, July 8, 2004, of the final Office action.

Applicants state that the patent issuing from this application is not subject to a terminal disclaimer.

The application history has been reviewed, and it has been determined that applicants are correct. The additional period of reduction of 31 days pursuant to § 1.704(b) should have been entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty (530) days (651 - (90 + 31)).

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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

Enclosure: Copy of adjusted PAIR calculation

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

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

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Kiran Gurudutt BELLARE, et al :
Application No. 09/728,724 : DECISION ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. 021756-087400US :

This is a decision on the petition, filed June 25, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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."

The application became abandoned for failure to timely pay the publication fee on or before May 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 6, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 7, 2009. A Notice of Abandonment was mailed on May 13, 2009.

Petitioner asserts that the publication fee was submitted with the issue fee on February 17, 2009. In support of this assertion, petitioner has provided a copy of Form PTOL-85 with an authorization to charge the required publication fee.

A review of the written record indicates the Office attempted to collect the publication fee by charging the deposit account as authorized, however, the funds were insufficient.

Accordingly, since the publication fee could not be collected in a timely manner, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
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

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

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Kiran Gurudutt BELLARE, et al :
Application No. 09/728,724 : DECISION ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. 021756-087400US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the publication fee on or before May 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 6, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 7, 2009. A Notice of Abandonment was mailed on May 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
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

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

Mail Date: 04/21/2010

Applicant	: Kiran Gurudutt Bellare	: DECISION ON REQUEST FOR
Patent Number	: 7647387	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/728,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1554** 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

MAY 21 2004

#8

MARK P. BOURGEOIS
P.O. BOX 95
OSCEOLA IN 46561

In re Application of	:
Heather Philpott	:
Serial No.: 09/728,748	: PETITION DECISION
Filed: SepteDecember 28, 2000	:
Attorney Docket No.: PH-17	:

This is in response to the petition under 37 CFR 1.181, filed July 18, 2002, 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 applicant on September 13, 2001, setting a three month shortened statutory period for reply. The Office action included a requirement for information under 37 CFR 1.105. Applicant replied on January 18, 2002, and included an argument in reply to the requirement for information, but declined to provide certain specific information requested by the Office. In view of the failure to supply all of the information requested the examiner held the application abandoned. Such action was proper. (See Star Fruits S.N.C. AND institute of Experimental Botany v. United States of America et al., DC, Eastern District of Virginia, decision rendered August 27, 2003, unpublished). In view thereof the request to withdraw the Notice of Abandonment cannot be granted.

The petition is **DENIED**. Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date thereof. No extension of time will be permitted.

The application will be forwarded for storage as appropriate.

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

Jasemine C. Chambers
Director, Technology Center 1600

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Commissioner for Patents
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Alexandria, VA 22313-1450
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JAN - 5 2005

MARK P. BOURGEOIS
P. O. BOX 95
OSCEOLA, IN 46561

In re Application of	:
Heather Philpott	:
Serial No.: 09/728,748	: PETITION DECISION
Filed: September 28, 2000	:
Attorney Docket No.: PH-17	:

This is in response to the renewed petition under 37 CFR 1.181, filed June 29, 2004, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

The previous petition decision, mailed May 21, 2004, denied applicant's request to withdraw the holding of abandonment based on failure to file a complete reply to a Request for Information. Applicant's reply to the Request, filed November 26, 2001, but received by the Office on January 18, 2002, due to mail screening delays, makes a reply to the Request by providing copies of Plant Breeders Registration Certificates issued by other countries, as required. The Request clearly stated also that **information on sale or public use of the plant anywhere in the world** was required to be disclosed. Applicant's reply specifically states (page 3, bottom) "Applicant declines, however, to provide information regarding public use and availability of the subject plant variety outside the United States..." Although applicant may have believed that the information required to be provided did not relate to, or have a bearing on, patentability, it was not applicant's prerogative to make such decision. That decision lies within the purview of the Office. Applicant's specific actions have been held to be grounds for the Office to hold the application abandoned, as has been done here. Although the Office may have delayed in acting on the reply, it is applicant's action and statement of refusal to comply which caused the application to be held abandoned.

The renewed petition has been carefully considered, but remains **DENIED**.

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 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

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

MARK P. BOURGEOIS
P.O. BOX 95
OSCEOLA IN 46561

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
Philpott
Application No. 09/728,748
Filed: September 28, 2000
Attorney Docket No. PH-17
For: Veronica Plant Named "Glory"

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 1, 2005 (certificate of mailing date January 29, 2005) to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply in a timely manner to the September 13, 2001 non-final Office action which set an extendable three (3) month period for reply. A not fully responsive reply was received in the Office on January 18, 2002 (certificate of mailing date November 26, 2001). No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no proper reply being received in the Office, this application became abandoned on December 14, 2001. A Notice of Abandonment was mailed on June 4, 2002.

Applicant has submitted a seemingly proper reply to the September 13, 2001 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 13, 2001 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 1600 for consideration of the January 18, 2002 (certificate of mailing date November 26, 2001) and June 29, 2004 (certificate of mailing date June 24, 2004) submissions.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

1/25/08

Patent No. :6848051
Ser. No. : 09728824
Inventor(s) : Robert H. Sweet, James A. Nickerson and Michael A. Palazzola
Issued : 2/15/05
Title : CONTACTLESS PUSH BUTTON SWITCH COMPRISING A HALL EFFECT TRANSDUCER AND MICROPROCESSOR
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Kevin S. Sprecher
Frost Brown Todd LLC
2200 PNC Center, 201 East Fifth St.
Cincinnati, Ohio 45202

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 19

KENNETH D'ALESSANDRO
SIERRA PATENT GROUP LTD
PO BOX 6149
STATELINE NV 89449

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
John M. Pinneo :
Application No. 09/728,942 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. PI-008 :

This is a decision on the petition to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed June 2, 2003, and the paper titled "Request for Refund of Petition Fee", also filed June 2, 2003, which is being treated as a petition for a refund under 37 CFR 1.181 and as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.4(b).

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

The petition for a refund under 37 CFR 1.181 is **DISMISSED**.

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

Consideration of the petitions under 37 CFR 1.137(b), 37 CFR 1.181, and 37 CFR 1.183 follows.

Petition Under 37 CFR 1.137(b):

Petitioner states that the instant patent is the subject of a PCT international application filed on November 21, 2001. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f) must be accompanied by:

> (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m); and
>
> (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Petition Under 37 CFR 1.181:

As to the arguments that no specific notice is required and that filing an international application in the United States Receiving Office was a notification of foreign filing, these arguments are not persuasive. 37 CFR 1.213(c) requires the applicant to provide notice, and 37 CFR 1.4(b) provides that each application must be complete in itself. An international application would not be placed into the file of an application that it relies upon for the benefit of an earlier filing date, and so applicant was required to file a separate paper pursuant to 37 CFR 1.4(b) in the above-identified application. Therefore, the mere filing of a PCT application is not the notification required by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c). Petitioner's attention is also directed to 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry, or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Pursuant to 37 CFR 1.4(c), the separate paper was required to address a distinct subject, so a notification of foreign filing was required to be on a separate paper from another matter (such as a new application). Filing a copy of the international application in the above-identified application would not have constituted notice of the foreign filing.

On November 21, 2001, a Patent Cooperation Treaty application, Application No. PCT/US01/43144, was filed. A review of the contents of the file of the above-identified application shows that no notification of the filing of the PCT application was filed within 45 days after the filing date of the PCT application. As a result of petitioner's failure to provide timely notice of the filing of the PCT application, pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), the above identified application became abandoned at midnight, Monday January 7, 2002 (January 5, 2002 being a Saturday).

Petition Under 37 CFR 1.183:

Lastly, in the event that the Commissioner did not agree with petitioner's arguments, petitioner has requested that the Commissioner suspend the operation of 37 CFR 1.4(b) pursuant to 37 CFR 1.183. A petition to waive or suspend a requirement of the rules requires petitioner to establish that this is an extraordinary situation where justice requires suspension of the rules. Petitioner has not met this showing. Petitioner has a remedy in this instance - file a petition under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f).

Furthermore, the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition for the revival of an application. See 35 U.S.C. § 41(a)(7). As this is a statutory requirement, it can **not** be waived.

Conclusion:

The previous Request and Certification under 35 USC 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of November 13, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 1700 to await for applicant's reply to the Office action mailed May 20, 2003.

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

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing (2 pages)

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KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Minoru TAKIMOTO :
Application No. 09/729,015 : DECISION GRANTING PETITION
Filed: December 4, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. FUJR 18.034 :
(100794-11554)

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

The petition is **GRANTED**.

The above-identified application became abandoned, by operation of law, for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 21, 2004, which set a shortened statutory period for reply of three (3) months. A two month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 22, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a request for continued examination (RCE) and submission pursuant to the provisions of 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 21, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 2124 for processing of the RCE and for consideration of the amendment submitted pursuant to the provisions of 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of
Glenn G. Bingham et al.
Application No. 09/729,051 : DECISION ON REQUEST
Filed: December 4, 2000 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD OF : ATTORNEY
RESERVING MEETING FACILITY
RESOURCES

This is a decision on the request filed on February 10, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed March 5, 2003.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/tpl: 3/26/03

cc: Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street NW
Washington, D.C. 20005-3315

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

MAILED

DEC 17 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20005-3315

In re application of
Glenn G. Bingham et al.
Application No. 09/729,051 :
Filed: December 4, 2000 :
For: STSTEM AND METHOD OF RESERVING MEETING FACILITY RESOURCES :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 20, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

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

snm: 12/15/02

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

Paper No. 15

Abraham N. Seidman
LAW OFFICE OF ABRAHAM SEIDMAN & ASSOCIATES
P O Box 16603
Beverly Hills, CA 90209

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FEB 0 2 2004
OFFICE OF PETITIONS

In re Application of

Carrillo, et al.

Application No. 09/729,052

Filed: December 4, 2000

Attorney Docket No. GCPW-101

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2004, 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 October 3, 2002, which set a shortened statutory period for reply of three (3) months. A response was filed on January 9, 2003, but failed to place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on January 4, 2003. A Notice of Abandonment was mailed on October 1, 2003.

The Request for Continued Examination filed January 20, 2004, is noted and made of record.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480

JUN 5 2003

In re Application of:
KRASEMANN *et al.*
Application No. 09/729,058
Filed: December 04, 2000
Attorney Docket No.: GR 99 P 5363

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed February 25, 2003, and supplemented on June 02, 2003. This communication has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED.**

The application was held abandoned for the failure timely file a response to an Office action mailed on March 29, 2002. A Notice of Abandonment was mailed on February 11, 2003.

Petitioner asserts that on July 01, 2002, a response including an amendment was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of an 11 page response bearing a certificate under 37 CFR 1.8(a) showing a date of transmission of July 01, 2002, a copy of a report from petitioner's facsimile machine which acknowledges satisfactory facsimile transmission of 11 pages to the PTO on July 01, 2002, and a statement from Carmen Panizzi, which attests to the previous timely transmission of the response to the PTO.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the

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

The petition, meets the conditions of 37 CFR 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted.**

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted on July 01, 2002, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for further examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 27 2006

OFFICE OF PETITIONS

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

In re Application of :
Nagel, et al. :
Application No. 09/729,069 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. GR 99 P 5374

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed September 29, 2004.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 21, 2003, after it was believed that no response was received to the non-final Office action mailed May 20, 2003. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed on September 21, 2004, indicating that a reply was not received.

The instant petition maintains that a response to the non-final Office action was mailed on August 20, 2003. A copy of the response containing a certificate of mailing dated August 20, 2003, a statement from the person who signed the certificate of mailing accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded to Technology Center 2800, GAU 2818 further processing, including treatment of the copy of the amendment received with the instant petition.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jones Volentine, L.L.P.
Suite 150
12200 Sunrise Valley Drive
Reston, VA 20191

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Kazutaka Saitoh :
Application No. 09/729,080 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. IIZ.018 :

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

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of William S. Francos appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Francos 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.

Further, it is not apparent whether Mr. Francos, who signed the statement of unintentional delay, was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in submitting a reply to the outstanding office action under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

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

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

cc: William S. Francos
One Freedom Square, Suite 1260
11951 Freedom Drive
Reston, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231
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Paper No. 5

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

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JUN 23 2003

OFFICE OF PETITIONS

In re Application of :
Urakabe, et al. :
Application No. 09/729,089 : LETTER WITHDRAWING
Filed: December 5, 2000 : THE HOLDING OF
Attorney Docket No. 400959 : ABANDONMENT
For: DISCHARGE LAMP LIGHTING APPARATUS :

This is a letter mailed *sua sponte* to vacate the Notice of Abandonment under 37 CFR 1.53(f) or (g), mailed May 30, 2003.

The above-identified application was filed on December 5, 2000. On February 5, 2001, the Office mailed a Notice to File Corrected Application Papers, requiring applicants to submit substitute drawings in compliance with 37 CFR 1.84 within two (2) months of the mail date of the Notice. The Office contended that petitioners did not respond in a timely manner. On May 30, 2003, the Office mailed a Notice of Abandonment.

However, petitioners timely submitted a replacement set of drawings on February 22, 2001.

A review of the letter enclosing the drawings reveals that applicants listed an incorrect application number.. Applicants typed: "Application No.: 09/719,089."

Even though applicants cited the wrong application number on the letter, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." A cross-referencing of any of the accurate identifiers found on the letter with Office databases should have enabled the Office to match the drawings with the proper file within the period for response.

The undersigned has changed the application number cited on the letter to that of the above-identified application and has placed the drawings in the file of the above-identified patent application.

The drawings were timely filed. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Office of Initial Patent Examination for further processing, using the 18 sheets of drawings filed on February 22, 2001. Thereafter, the application

file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

STAAS & HALSEY
700 ELEVENTH STREET NW
SUITE 500
WASHINGTON, DC 20001

COPY MAILED

JUL 17 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Steve C. Mutschler et al.	:
Application No. 09/729,090	:
Filed: December 5, 2000	:DECISION ACCORDING
For: ELECTRONIC NEGOTIATION	:STATUS UNDER 37 CFR
AND FULFILLMENT FOR PACKAGE OF	:1.47(a)
FINANCIAL PRODUCTS AND/OR	:
SERVICES	:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 7, 2001.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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 2166 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

SANDRA L DEVINE
3856 N RIXLEY STREET
ARLINGTON, VA 22207

COPY MAILED

JUL 17 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Steven C. Mutschler and Sandra L. Devine
Application No. 09/729,090
Filed: December 5, 2000
For: ELECTRONIC NEGOTIATION AND FULFILLMENT FOR PACKAGE OF FINANCIAL PRODUCTS AND/OR SERVICES

Dear Ms. Devine:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
STAAS & HALSEY
700 ELEVENTH STREET NW
SUITE 500
WASHINGTON, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 4

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLL
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

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JUL 31 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Vanderbauwhede, Boxho, and :
Macq : DECISION REFUSING STATUS
Application No.09/729177 : UNDER 37 CFR 1.47(a)
Filed: December 05, 2000 :
For: METHOD AND DEVICE FOR :
ECHO CANCELLING

This is in response to the "Petition Under 37 CFR §1.47(a)," filed on April 20, 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. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 5, 2000, without an executed oath or declaration and naming Vanderbauwhede, Boxho, and Macq as joint inventors.

Accordingly, on February 20, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on April 20, 2001, the instant petition and a declaration of facts of Caroline Heyndrickx were filed. Ms. Caroline Heyndrickx states that the Declaration and Power of Attorney and the Assignment paper were sent to Mr. Macq for execution along with a copy of the English application but the papers were returned by UPS Courier. In addition, a ``Declaration and Power of Attorney'' signed by inventors Vanderbauwhede and Boxho was filed. The $130.00 petition and the $130.00 surcharge were also filed with the petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (4) set forth above.

As to item (1), the petition states that inventor Macq is no longer employed by the assignee and has refused to execute the required formal papers due to a dispute as to the terms of departure. The declaration of facts of Ms. Heyndrickx, however, indicates that the papers which were sent to Mr. Macq for execution were returned and Mr. Macq cannot be located. Accordingly, it is unclear whether Rule 47 applicant is seeking to obtain Rule 47 status on the basis that the non-signing inventor cannot be reached or on the basis that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers.

Rule 47 applicant has failed to show that the inventor cannot be reached. It appears from the declaration of facts of Ms. Heyndrickx and the copy of the UPS Express mailing label attached thereto that the papers for Mr. Macq's signature were sent to the assignee's business address. The petition indicates that Mr. Macq no longer works for the assignee. Simply mailing the application papers to a business address at which Mr. Macq no longer works and having such papers returned is insufficient proof that the non-signing inventor cannot be located. Ordinarily, the last known address is the last known residence of the non-signing inventor.

In addition, Rule 47 applicant has also failed to show or provide proof that the inventor has refused to sign the declaration after having been presented with a copy of the application papers. While the petition indicates that the inventor has refused to execute the formal papers, no details regarding the alleged refusal have been provided. It is also unclear whether the inventor was presented with a copy of the application papers (specification, including claims, drawings, and oath or declaration) prior to the alleged refusal. The circumstances of the refusal must be specified in an affidavit or declaration of facts by the person to whom the refusal was made. See MPEP 409.03(d).

A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration. Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show the inventor has refused to join in the application. Alternatively, if the papers are returned as undeliverable with no forwarding address, then applicant may be able to establish that the inventor cannot be reached. In that case, an affidavit or declaration of facts should be submitted that fully describes the exact facts relied on to establish that a diligent effort to locate the nonsigning inventor was made. A copy of the envelope showing that it was undeliverable should be

submitted as documentary proof.

As to item (4), a statement of the inventor's last known address is required. It is noted that the declaration of facts of Ms. Heyndrickx states that ``[w]e do not have another address of Mr. Macq and he left Alcatel without leaving his home address.'' An address for Mr. Macq has been provided in the declaration under 37 CFR 1.63 but it is unclear if this is Mr. Macq's last known address. As noted above, the last known address is ordinarily the last known residence of the non-signing inventor.

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 Patent Legal Administration

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5586.

Eugenia Jones

Eugenia Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Q 61789

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC139
JAN 31 2002
PATENT & TRADEMARK OFFICE

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AUG 0 1 2001

Paper No. 4

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLL
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

COPY MAILED

JUL 31 2001

OFFICE OF PETITIONS
A/C PATENTS

RECEIVED
FEB 05 2002
OFFICE OF PETITIONS

In re Application of :
Vanderbauwhede, Boxho, and :
Macq :
Application No.09/729177 : DECISION REFUSING STATUS
Filed: December 05, 2000 : UNDER 37 CFR 1.47(a)
For: METHOD AND DEVICE FOR :
ECHO CANCELLING :

RECEIVED
FEB 04 2002
OFFICE OF PETITIONS

This is in response to the "Petition Under 37 CFR §1.47(a)," filed on April 20, 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. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 5, 2000, without an executed oath or declaration and naming Vanderbauwhede, Boxho, and Macq as joint inventors.

Accordingly, on February 20, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on April 20, 2001, the instant petition and a declaration of facts of Caroline Heyndrickx were filed. Ms. Caroline Heyndrickx states that the Declaration and Power of Attorney and the Assignment paper were sent to Mr. Macq for execution along with a copy of the English application but the papers were returned by UPS Courier. In addition, a ``Declaration and Power of Attorney'' signed by inventors Vanderbauwhede and Boxho was filed. The $130.00 petition and the $130.00 surcharge were also filed with the petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (4) set forth above.

As to item (1), the petition states that inventor Macq is no longer employed by the assignee and has refused to execute the required formal papers due to a dispute as to the terms of departure. The declaration of facts of Ms. Heyndrickx, however, indicates that the papers which were sent to Mr. Macq for execution were returned and Mr. Macq cannot be located. Accordingly, it is unclear whether Rule 47 applicant is seeking to obtain Rule 47 status on the basis that the non-signing inventor cannot be reached or on the basis that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers.

Rule 47 applicant has failed to show that the inventor cannot be reached. It appears from the declaration of facts of Ms. Heyndrickx and the copy of the UPS Express mailing label attached thereto that the papers for Mr. Macq's signature were sent to the assignee's business address. The petition indicates that Mr. Macq no longer works for the assignee. Simply mailing the application papers to a business address at which Mr. Macq no longer works and having such papers returned is insufficient proof that the non-signing inventor cannot be located. Ordinarily, the last known address is the last known residence of the non-signing inventor.

In addition, Rule 47 applicant has also failed to show or provide proof that the inventor has refused to sign the declaration after having been presented with a copy of the application papers. While the petition indicates that the inventor has refused to execute the formal papers, no details regarding the alleged refusal have been provided. It is also unclear whether the inventor was presented with a copy of the application papers (specification, including claims, drawings, and oath or declaration) prior to the alleged refusal. The circumstances of the refusal must be specified in an affidavit or declaration of facts by the person to whom the refusal was made. See MPEP 409.03(d).

A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration. Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show the inventor has refused to join in the application. Alternatively, if the papers are returned as undeliverable with no forwarding address, then applicant may be able to establish that the inventor cannot be reached. In that case, an affidavit or declaration of facts should be submitted that fully describes the exact facts relied on to establish that a diligent effort to locate the nonsigning inventor was made. A copy of the envelope showing that it was undeliverable should be

submitted as documentary proof.

As to item (4), a statement of the inventor's last known address is required. It is noted that the declaration of facts of Ms. Heyndrickx states that ``[w]e do not have another address of Mr. Macq and he left Alcatel without leaving his home address.'' An address for Mr. Macq has been provided in the declaration under 37 CFR 1.63 but it is unclear if this is Mr. Macq's last known address. As noted above, the last known address is ordinarily the last known residence of the non-signing inventor.

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 Patent Legal Administration

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5586.

Eugenia Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAIL

OCT 2 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Earl et al.
Application No.: 09/729,187
Filed: December 5, 2000
For: TECHNIQUE TO TRANSFER DATA OVER A NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw from Representation filed August 13, 2003.

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

The singer of the petition, Paul J. Skwierawski is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

The Power of Attorney by Assignee of Entire Interest (Revocation of Prior Powers) dated September 25, 2003 has been entered and accepted in this file.

For the above stated reasons, the request 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 Power of Attorney dated September 25, 2003.

John F. Kacvinsk
c/o BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

for James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
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Paper No.

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
Mikael Cocco : DECISION ON PETITION
Application No. 09/729,261 :
Filed: December 1, 2000 :
Atty Docket No. CITI0208 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 CFR 1.181(a))" filed June 25, 2007.

By Notice of Abandonment mailed May 1, 2007, applicant was advised that the application was abandoned because the period for seeking court review after the decision rendered on April 24, 2007 by the Board of Patent Appeals and Interferences had expired and there were no allowed claims. See 37 CFR 1.304.

In response, applicant filed the instant petition along with a Request for Continued Examination (RCE), the RCE fee and a submission under 1.114(c) in the form of an amendment. Applicant submits that at the time of filing the RCE on Monday, June 25, 2007, the two month period for seeking court review, provided in 37 CFR 1.304(a)(1), had not expired.

Petitioner's argument is persuasive. As provided in MPEP 706.07(h), the filing of an RCE is timely within two months after a decision by the Board:

> The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of

the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.

It is well established that if the last day of the time for taking action is a Sunday, the time for taking action is extended to the next day, which is neither a Saturday, Sunday nor a Federal Holiday. See 37 CFR 1.304(b).

Thus, the RCE filed Monday, June 25, 2007 was timely filed. Further the RCE was proper as it included a submission and payment of the RCE fee.

Accordingly, the Notice of Abandonment mailed May 1, 2007 is hereby **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2876 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment, for consideration by the examiner of the RCE timely filed Monday, June 25, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6344985	2002-02-05	09729315	2000-12-05	019366.0110

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	/James B. Arpin/	Date (YYYY-MM-DD)	2010-03-11
Name	James B. Arpin	Registration Number	33470

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6344985
Issue Date: February 5,2002
Application No. 09729315
Filed: December 5,2000
Attorney Docket No. 019366.0110

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

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

The petition is **GRANTED**.

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

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

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INTELLECTUAL PROPERTY DEVELOPMENT
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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Patent No. 6,814,897 :
Issued: November 9, 2004 :
Application No. 09/729,317 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket Number: NI2903,03US :

This is a decision on the petition, filed September 26, 2005, under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is Research Investment Network, Inc., and that the incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Research Investment Network, Inc. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

Petitioner's deposit account no. 04–1175 has been charged $130.00 for the petition and $100.00 for the certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DONALD E. SCHREIBER, ESQ.
A PROFESSIONAL CORPORATION
PO BOX 64150
SUNNYVALE, CA 94088-4150

In re Application of
Neukermans et al.
Application No. 09/729,336
Filed: December 1, 2000
Attorney Docket No. 2149A

DECISION GRANTING
PETITION

This is a decision on the petition filed on April 14, 2001, requesting that a Notice Of Incomplete Nonprovisional Application ("Notice"), mailed on February 21, 2001 for the above-identified application, be withdrawn and that this application be accorded a filing date of December 1, 2000.

The petition is GRANTED.

The application was filed on December 1, 2000. However, on February 21, 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 written description of the invention.

In response, the present petition is filed. Petitioner contends that a written description of the invention is contained in the parent application a copy of which was filed concurrently with the remaining application on December 1, 2000.

Apparently, the present application is a continuation of application 09/446,540, which in turn is a national stage application of PCT/US99/21139. A copy of this PCT application has been located in the Office file for this application. A written description as prescribed in paragraph 1 of 35 U.S.C. 112 as well as 37 CFR 1.53(b) and 1.71 is contained in this copy of PCT application. Therefore, the requirements under 35 U.S.C. 111(a)(4) and 37 CFR 1.53(b) were met on December 1, 2000.

The Notice mailed on February 21, 2001 is hereby withdrawn.

The petition is granted.

In addition, the Office acknowledges receipt of the Supplemental Preliminary Amendment enclosed with the present petition.

The application is being forwarded to the Office of Finance for refunding the $130.00 petition fee as requested in the present petition.

Thereafter, the application will be returned to the Initial Patent Examination Division for further processing with a filing date of December 1, 2000.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Neukermans et al.	:	
Application No. 09/729,336	:	ON PETITION
Filed: December 1, 2000	:	
Attorney Docket No. 2149A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 18, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 7, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 8, 2004. A Notice of Abandonment was mailed on February 23, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The file is now being forwarded to the Publishing Division for processing.

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

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

cc: J. ROBIN ROHLICEK
FISH & RICHARDSON, P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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STAMFORD CT 06903

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OFFICE OF PETITIONS

In re Application of :
Itzhak Shoher :
Application No. 09/729,362 : DECISION ON PETITION
Filed: December 5, 2000 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: SHO-2000-4 :
Title: PORTABLE DEVICE AND :
SYSTEM TO REMOTELY ACCESS A :
COMPUTER FROM A DISTANT :
LOCATION AND FOR USING A TV OR :
OTHER VIDEO MONITOR TO DISPLAY :
COMPUTER DATA :

This is a decision on the petition filed on June 26, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed September 14, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 23, 2006 along with a one-month extension of time, and an advisory action was mailed on February 9, 2006. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on January 15, 2006[1]. A notice of abandonment was mailed on May 31, 2006.

1 It is noted that this response contained a certificate of mailing dated January 17, 2006. It is noted that January 14, 2006 fell on a Saturday and January 16, 2006 was a federal holiday.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that both a Request for Continued Examination (RCE) and a petition for a two-month extension of time were filed on February 16, 2006. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated February 14, 2006.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner has further included a copy of his postcard receipt, which contains a date stamp of February 16, 2006.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous submission, provided an additional copy of the previously submitted correspondence, provided a photocopy of the check which was presented with this submission, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted, and subsequently misplaced in the

Office. However, it does not appear that Petitioner has submitted another check.

Since the RCE was misplaced in the Office, the check which Petitioner included along with this RCE was misplaced as well. It does not appear that the check has been cashed. The Office records have been reviewed, and they do not show receipt of either of these fees. It is noted that the petition does not appear to contain an authorization to charge any deficient fees to a Deposit Account.

As such, the petition must be **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(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].

With the renewed petition, Petitioner should include another check in order to pay the fees associated with the filing of the RCE and the two-month extension of time.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. 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 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 reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. None

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD CT 06903

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OFFICE OF PETITIONS

In re Application of :
Itzhak Shoher :
Application No. 09/729,362 : DECISION ON RENEWED PETITION
Filed: December 5, 2000 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: SHO-2000-4 :
Title: PORTABLE DEVICE AND :
SYSTEM TO REMOTELY ACCESS A :
COMPUTER FROM A DISTANT :
LOCATION AND FOR USING A TV OR :
OTHER VIDEO MONITOR TO DISPLAY :
COMPUTER DATA :

This is a decision on the renewed petition filed on October 17, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed September 14, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 23, 2006 along with a one-month extension of time, and an advisory action was mailed on February 9, 2006. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on January 15, 2006[1]. A notice of abandonment was mailed on May 31, 2006.

The original petition was filed on June 26, 2006, and was dismissed via the mailing of a decision on September 11, 2006. Petitioner established that a Request for Continued Examination (RCE) along with a two-month extension of time had been timely

1 It is noted that this response contained a certificate of mailing dated January 17, 2006. January 14, 2006 fell on a Saturday and January 16, 2006 was a federal holiday.

submitted, however the required fees were not supplied with the petition.

With this renewed petition, Petitioner has supplied both the fee associated with the filing of an RCE, along with the two-month extension of time required to make the original submission of the RCE timely.

Accordingly, the renewed petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE which was received with the original petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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DEC 22 2008

EUGENE LIEBERSTEIN
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STAMFORD CT 06903

In re Application of :
Itzhak Shoher : DECISION ON PETITION
Application No. 09/729,362 :
Filed: December 5, 2000 :
Attorney Docket No. SHO-2000-4:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed September 15, 2008.

The petition under 37 CFR § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). No extensions of time are permitted.

The above-identified application became abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed April 21, 2008. No extension of time under the provisions of 37 CFR 1.136 is permitted for filing corrected drawings. No reply having been received, the above-identified application became abandoned on July 22, 2008. A courtesy Notice of Abandonment was mailed on August 15, 2008.

In response, applicants filed the instant petition. Applicants argue that the Notice of Allowance and Fees Due did not have a Notice of Allowability attached and that Applicant was not otherwise aware of the requirement to submit corrected drawings. Accordingly, applicants state they duly submitted payment of the issue fee within the required time frame period as evidenced by an attached copy of the return postcard.

Applicants have submitted no persuasive evidence to support a conclusion that no Notice of Allowability was attached to the Notice of Allowance. Moreover, the record does not support such a conclusion. A review of the application history reveals no irregularities in the mailing of the Notice of Allowability. In fact, the record supports a conclusion that four pages were mailed to the applicant on April 21, 2008, including the 3-page Notice of Allowance with the 1-page Notice of Allowability.

Further, it is unclear why practitioner would not have questioned the absence of a Notice of Allowability. It is undisputed that they timely received the Notice of Allowance. It is well-established Office practice that a Notice of Allowability form PTOL-37 is used whenever an application has been placed in condition for allowance. See MPEP 1302.03. The Notice of Allowability notifies applicant of the allowability of the claims. Further, in situations where informalities such as drawing corrections or submission of supplemental or corrected declarations are outstanding at the time of allowance, applicants will be notified on the PTOL-37 (Notice of Allowability) of such informalities. Extensions of time under 37 CFR 1.136(a) or (b) are NOT available to correct such informalities. Any such informalities must be corrected and the issue fee and the publication fee, if required, must be paid within the 3-month period. Otherwise, the application will become abandoned by operation of law, 35 U.S.C. 151. However, the Notice of Allowability accompanies the Notice of Allowance and Fee(s) Due regardless of whether such informalities exist. Thus, practitioner should have questioned the absence of any Notice of Allowability.

The facts and circumstances of the abandonment have been considered, and it has been determined that withdrawal of the abandonment is not warranted.

Applicants are not precluded from submitting a petition to revive pursuant to 37 CFR 1.137.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROADI
STAMFORD CT 06903

COPY MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Itzhak Shoher : DECISION ON PETITION
Application No. 09/729,362 :
Filed: December 5, 2000 :
Attorney Docket No. SHO-2000-4:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed January 2, 2009. This decision is made in light of the supplements to petition filed January 15, 2009 and February 26, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective July 22, 2008 for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed April 21, 2008. A courtesy Notice of Abandonment was mailed on August 15, 2008. By decision mailed December 22, 2008, a prior "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed September 15, 2008 was dismissed.

In response, applicants filed the instant petition to revive. This petition includes the required reply[1] in the form of corrected drawings; payment of the petition fee set forth in 37 CFR § 1.17(m)[2]; and the required statement of unintentional delay. No terminal disclaimer is required.

---

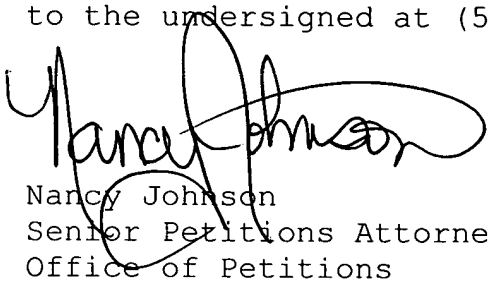
[1] The Issue Fee and Publication Fee were timely paid.

[2] The petition fee as originally presented on January 2, 2009 did not clear the bank. The fee was resubmitted on January 15, 2009. The processing fee for refusal of the check was submitted on February 26, 2009.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 3 0 2007

OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

In re Application of :
Steven T. Jaffe et al :
Application No. 09/729,443 : DECISION ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. BP1235 :

This is a decision on the petition, filed March 27, 2007 under 37 CFR 1.137(b), which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed July 10, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 12, 2007.

Petitioner asserts that the Office action dated July 10, 2006 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of July 10, 2006. In this regard, the Office received a change of address/power of attorney on March 21, 2006, prior to the mailing of the Office action of July 10, 2006. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed February 12, 2007 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2611 for consideration of the amendment filed March 27, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

NOVAK DRUCE DELUCA & QUIGG
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON, DC 20005

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JUL 0 6 2005

OFFICE OF PETITIONS

Application of :
Karl Kolter et al :
Application No. 09/729,460 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. 51007 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 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 communication mailed May 5, 2004. The Office communication set a period for reply of one (1) month or thirty (30) days (whichever is later) from the mail date of the Office communication. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 6, 2004.

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

The application file is being forwarded to Technology Center AU 1616.

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. 6

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FEB 16 2001

**OFFICE OF PETITIONS
A/C PATENTS**

Charles Russell Cypher
405 14th Street
Suite 1607
Oakland, CA 94612-2747

In re Application of
William F. Leek
Application No. 09/729,491
Filed: December 3, 2000
Attorney Docket No. SST/1035

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed January 3, 2001, requesting that the above-identified application be accorded a filing date of December 3, 2000, instead of the presently accorded date of December 4, 2000.

Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service, on December 3, 2000. In support, petitioners provided a copy of the Express Mail label, receipt no. EL668416864US, showing a Date-In of December 3, 2000. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Petitioner requests that the application be accorded a filing date of December 3, 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 December 3, 2000.

The petition is granted. Since the petition was a result of PTO error, the $130.00 petition fee is being refunded to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to December 3, 2000.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of :
William F. Leek :
Application No. 09/729,491 :
Filed: December 3, 2000 :
Attorney Docket No. SST/1035 :

ON PETITION

This is a decision on the petition, filed March 7, 2008, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

The petition is **DISMISSED**.

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."

The application was held abandoned for a failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 5, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 9, 2008.

In response, on March 7, 2008, the present petition was filed wherein petitioner asserts that a reply was timely filed. To support this assertion, petitioner submitted a copy of a Electronic Acknowledgement Receipt which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on January 7, 2008, of , *inter alia,* Request for Continued Examination and Amendment. Petitioner explains that, in view of a 3-month extension of time also submitted, the response period of October 5, 2007 was properly extended, since January 5, 2008 was Saturday and Monday January 7, 2008 was the next business day.

Petitioner's argument is not well taken. Pursuant to 37 CFR 1.136(a)(2) a reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application, but in no situation may an applicant reply later than the maximum time period set by statute. Since the maximum time period set by statute was January 5, 2008, any response, including an appropriate extension of time, must have been filed no later than January 5, 2008, since January 5, 2008 was a Saturday. Accordingly, this application was properly held abandoned as of October 5, 2007.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
William F. Leek :
Application No. 09/729,491 : ON PETITION
Filed: December 3, 2000 :
Attorney Docket No. SST/1035 :

This is a decision in response to the renewed petition, filed September 2, 2008, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned for a failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 5, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 9, 2008. On March 7, 2008, a petition to withdraw the holding of abandonment was filed; however, the petition was dismissed in a decision mailed July 2, 2008. In response, the present petition was filed wherein petitioner again argues that reply was timely.

On reconsideration, it is conceded that petitioner is correct. The Request for Continued Examination (RCE) , amendment and the 3-month extension of time filed January 7, 2008 were timely in accordance to 35 U.S.C. 21(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of July 5, 2007 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3633 for processing the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

The $400 petition fee submitted with the present petition is unnecessary and is subject to refund. Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries regarding prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND CA 94612

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MAR 0 5 2009

OFFICE OF PETITIONS

In re Application of
William F. Leek
Application No. 09/729,491
Filed: December 3, 2000
Attorney Docket No. SST/1035

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed February 20, 2009.

The request is **GRANTED**.

The $400 fee for the petition filed September 2, 2008 is being refunded by check as requested.

The request for refund filed February 20, 2009, was signed by Eoghan Canniffe on behalf of the Law Offices of James R. Cypher. Petitioner is encouraged to note 37 CFR 1.33(b). Therefore, the request for refund is granted **solely** in view of the petition decision mailed October 15, 2008 in which the decision alerted petitioner that the petition fee of $400 submitted on September 2, 2008 was unnecessary and may be refunded.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

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MAY 2 1 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Crawford, et al.
Application No. 09/729,507
Filed: December 3, 2000
Attorney Docket No. SST/1082

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed December 29, 2000, requesting that the above-identified application be accorded a filing date of December 3, 2000, rather than the presently accorded filing date of December 4, 2000.

Petitioner alleges that the above-identified application was deposited in Express Mail service on December 3, 2000. In support of the allegation, the petition is accompanied by a copy of Express Mail receipt No. EL668416855US, showing a "date-in" of December 3, 2000. The same Express Mail receipt number was placed on the original transmittal sheet accompanying the application papers located in the official file.

In view of the above, the petition is **granted**.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to **December 3, 2000.**

The petition fee of $130.00 is unnecessary and will be credited to Deposit Account No. 03-4075.

Telephone inquiries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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MAY 12 2004
OFFICE OF PETITIONS

In re Application of	:	
Sullivan et al.	:	
Application No. 09/729,515	:	ON PETITION
Filed: December 4, 2000	:	
Attorney Docket No. PA1671US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 19, 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 Notice to File Missing Parts of Application (Notice) mailed February 2, 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 3, 2001.

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

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

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

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

ARNOLD & ASSOCIATES
AN INTELLECTUAL PROPERTY LAW FIRM
ERIK J. OSTERRIEDER, ESQ., REG. P.A.
2401 FOUNTAIN VIEW DRIVE, SUITE 630
HOUSTON, TEXAS 77057
FIRM: (713) 972-1150
DIRECT: (713) 335-3021
FAX: (713)-972-1180
E-MAIL: EOSTERRIEDER@ARNOLD-IPLAW.COM

FAX RECEIVED
DEC 10 2002
GROUP 3600
OFFICIAL

FACSIMILE TRANSMITTAL SHEET

TO:
Richard Fults;
Kamran Khan

COMPANY:
United States Patent and Trademark Office;
Tradescape

DATE:
December 10, 2002

FAX NUMBER:
(703) 305-7687;
(212) 508-8617

TOTAL NO. OF PAGES INCLUDING COVER:
4

PHONE NUMBER:
(703) 305-5416;
(212) 508-8613

SENDER'S REFERENCE NUMBER:
30455US

RE
Request for Withdraw as Attorneys of Record for U.S. patent application 09/729,527
(No confirmation by post)

YOUR REFERENCE NUMBER:

☑ URGENT ☑ FOR REVIEW ☑ PLEASE COMMENT ☑ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

IMPORTANT/CONFIDENTIAL: This fax is intended only for the use of the individual or entity to whom it is addressed. This message contains information from the law firm of Arnold & Associates. Unless otherwise apparent from its subject, this fax may contain privileged material, and its viewing by anyone other than the intended recipient is strictly prohibited. If you have received this fax in error, please contact the sender so that we may arrange for retrieval at no cost to you. Thank you.

PLEASE CONFIRM RECEIPT.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael Bundy, *et al.*	§	Group Art Unit: 3628
Serial No.: 09/729,527	§	Assignee: Tradescape Technologies, L.L.C.
Date Filed: December 4, 2000	§	Examiner: R. Fults
Title: Method and System for Multi-Path Routing of Electronic Orders for Securities	§	Atty. Docket No.: T30455US

Commissioner for Patents
Washington, D.C. 20231

Certificate of Transmission
I hereby certify that this correspondence is being transmitted to the Commissioner for Patents at fax number (703) 305-7687 to the attention of Examiner R. Fults in the United States Patent and Trademark Office, on the date of signature, below.

Signature Erik J. Ostermeier

Date 12/10/02

OFFICIAL

FAX RECEIVED
DEC 10 2002
GROUP 3600

TRANSMITTAL LETTER

Please find enclosed for filing in the above-referenced case:

- Original and copy of this Transmittal Letter; and
- Request for Withdrawal as Attorneys of Record, Change of Correspondence Address, Change of Fee Address, and Change of Maintenance Address.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 01-2511 for any additional filing fees required or overpaid.

Respectfully submitted,

Date: December 10, 2002

Erik J. Ostermeier
Reg. No. 48,966
Arnold & Associates
2401 Fountain View Drive, Suite 630
Houston, TX 77057
Tel: (713) 972-1150
Fax: (713) 972-1180
ATTORNEY FOR APPLICANTS AND ASSIGNEE

APPROVED
JOHN J. LOVE
DIRECTOR TC 3600
1-22-03

#45

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael Bundy, *et al.*	§	Group Art Unit: 3628
Serial No.: 09/729,527	§	Assignee: Tradescape Technologies, L.L.C.
Date Filed: December 4, 2000	§	Examiner: R. Fults
Title: Method and System for Multi-Path Routing of Electronic Orders for Securities	§	Atty. Docket No.: T30455US

Commissioner for Patents
Washington, D.C. 20231

Certificate of Transmission
I hereby certify that this correspondence is being transmitted to the Commissioner for Patents at fax number (703) 305-7687 to the attention of Examiner R. Fults in the United States Patent and Trademark Office, on the date of signature, below.

Signature Erik J. Osterrieder

Date 12/20/02

REQUEST FOR WITHDRAWAL AS ATTORNEYS, CHANGE OF CORRESPONDENCE ADDRESS, CHANGE OF FEE ADDRESS, AND CHANGE OF MAINTENACE ADDRESS

As principal attorney, I hereby request my withdrawal and my associates as attorneys, for the above-referenced patent application. The attorneys of record are: Gordon T. Arnold, Erik J. Osterrieder, Kenneth P. Beyers, John R. Biggers, H. Artoush Ohanian, and Jeffrey S. Schubert, members of the State Bar of Texas, and all current or former members of the firm Arnold & Associates, 2401 Fountain View Drive, Suite 630, Houston, Texas 77057, telephone number (713) 972-1150 and facsimile number (713) 972-1180.

My withdrawal is permitted by 37 C.F.R. § 10.40 (c)(1)(vi) because "The petitioner's client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time."

Before filing this request, the petitioner complied with all requirements under 37 C.F.R. § 10.40 (a). Specifically, petitioner gave "due notice to his client" by repeatedly requiring payment on the unpaid invoices or face withdrawal as their attorneys of record. The petitioner has also delivered "to the client all papers and property to which the client is entitled". Finally, the USPTO has not issued any office actions against the above-referenced patent application except for a notice to file missing parts, and petitioner has already timely responded to this notice. Therefore, the applicant/assignee is not prejudiced by the

petitioner's request for withdrawal, and has ample time to find substitute counsel. *See* MPEP § 402.06.

In addition to the foregoing request for withdrawal, please change the correspondence address, fee address, maintenance address, and direct all future correspondence to:

Tradescape Corporation
Attn.: Kamran Khan
135 East 57th Street, 20th Floor
New York, NY 10022
Telephone: (212) 508-8613
Facsimile: (212) 508-8617

No fee is believed to be due with the submission of this request. However, the Commissioner is hereby authorized to charge Deposit Account No. 01-2511 for any underpayment of fees. A duplicate copy of this transmittal is enclosed for this purpose.

Respectfully submitted,

Date: December 10, 2002

Gordon T. Arnold /cgc

Gordon T. Arnold
Reg. No. 32,395
Arnold & Associates
2401 Fountain View Drive, Suite 630
Houston, TX 77057
Tel: (713) 972-1150
Fax: (713) 972-1180
ATTORNEY FOR APPLICANTS AND ASSIGNEE

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTOR'S OFFICE

JUL 03 2006

TECHNOLOGY CENTER 3600

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

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

In re Application of:
Perry G. Vincent
Application No. 09/729,540
Filed: December 4, 2000
Attorney Docket No.: 8808
For: SYSTEM AND METHOD FOR GRAPHICALLY REPRESENTING PURCHASE PROFILES AND SALES GUIDANCE TO A CUSTOMER SERVICE REPRESENTATIVE

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the Petition filed on April 5, 2006, under 37 C.F.R. 1.181, for withdrawal of the Notification of Non-Complaint Appeal Brief, and the Appeal to the Board of Patent Appeals and Interferences continued with the acceptance of the Appeal Brief filed on December 29, 2005.

The Petition is **GRANTED**

A review of the history reveals that on March 24, 2006 the Office issued a Non-Compliant Appeal Brief indicating that Appellant argued that the dependent claims, 2-10, are patentable over the prior art of record but provide no support. In response to the Non-Complaint Appeal Brief, applicant can find no defect in the Appeal Brief as filed on December 29, 2005.

Based on the evidence presented, the petition is granted and the Non-Complaint Appeal Brief is vacated. The application is being forwarded via Supervisory Legal Instruments Examiner to the Primary Examiner to be acted upon.

Inquiries related to the decision may be directed to Supervisory Patent Examiner Tariq R. Hafiz at (571)272-6729.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350
FAX (571) 273-5250

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR -2 2004

Paper No. 16

In re Application of
Pete Hesser
Application No. 09/729,556
Filed: December 4, 2000
Attorney Docket No. HF46/02

: DECISION ON PETITION

This is a decision on the petition filed on January 3, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure as a result of petitioner's failure to file a corrected appeal brief, resulting in dismissal of the appeal. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive proper notification of that the examiner regarded the appeal brief filed on January 8, 2003 as being informal. Petitioner alleges that the letter dated April 2, 2003 regarding the inforemal nature appeal brief was not mailed to the proper correspondence address of record. A review of these allegations shows them to be correct. As the letter dated April 2, 2003 was not mailed to the correspondence address then of record, it is clear that this application is not abandoned for failure to file a response thereto.

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 remail paper No. 9 to the correct correspondence address and to enter the substitute appeal brief filed on January 3, 2004 into the record as a reply to paper No. 9. Thereafter, the application will be forwarded to the Examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin, FL 34698-7001
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

UNIVATION TECHNOLOGIES
5555 SAN FELIPE
SUITE 1950
HOUSTON, TX 77056

COPY MAILED

JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of :
John F. Szul et al :
Application No. 09/729,557 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 2000U044.US :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 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 February 21, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing

of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), applicant must pay a petition fee of $1,300.00 in order for the petition to be 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). Accordingly, since the request for extension of time submitted with the petition on July 3, 2003 was subsequent to the maximum extendable period for reply, therefore, the request is denied.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

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

Attachment: Notice of Fee Due

UNITED STATES 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

UNIVATION TECHNOLOGIES
5555 SAN FELIPE
SUITE 1950
HOUSTON, TX 77056

COPY MAILED

OCT 1 4 2003

OFFICE OF PETITIONS

In re Application of :
John F. Szul et al :
Application No. 09/729,557 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 2000U044.US :

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

The petition is **GRANTED**.

Pursuant to petitioner's authorization, Deposit Account No. 50-0589 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

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

The application file is being forwarded to Technology Center AU 1713.

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. 5

EUGENE LEDONNE
REED SMITH
375 PARK AVENUE
17TH FLOOR
NEW YORK, NY 10152

COPY MAILED

AUG 2 2001

OFFICE OF PETITIONS
A/C PATENTS

ON PETITION

In re Application of :
David R. Smith et al. :
Application No. 09/729,562 :
Filed: December 4, 2000 :
Attorney Docket No. 500582.20016 :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 29, 2001.

The petition is dismissed.

Rule 47 petitioner 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 (1) set forth above.

As to item (1), petitioner must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims and drawings). There is no indication in the present case whether joint inventor Duane Eareckson was presented with a copy of the complete application papers. If joint inventor Mr. Eareckson was not presented with a copy of the application papers, then Mr. Eareckson could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. See

MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Eareckson, then petitioner will have to mail a copy of the complete application papers to Mr. Eareckson at his 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., to support a showing that Mr. Eareckson has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration 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
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

EUGENE LEDONNE
REED SMITH
375 PARK AVENUE
17TH FLOOR
NEW YORK, NY 10152

COPY MAILED

DEC 26 2001

OFFICE OF PETITIONS

In re Application of	:	
David R. Smith et al	:	
Application No. 09/729,562	:	DECISION GRANTING
Filed: December 4, 2000	:	STATUS UNDER 37 CFR
For: SYSTEM AND METHOD FOR	:	1.47(a)
SINGLE-ENDED LINE ANALYSIS FOR	:	
QUALIFICATION AND MAPPING	:	

This is in response on the request for reconsideration of petition under 37 CFR 1.47(a) filed December 1, 2001, in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed August 2, 2001.

The petition is granted.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2643 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

DUANE EARECKSON
2521 LINK ROAD
LYNCHBURG, VA 24503

COPY MAILED

DEC 26 2001

OFFICE OF PETITIONS

In re Application of
Smith; Liberman; Eareckson; Johnson; and Wyar
Application No. 09/729,562
Filed: December 4, 2000
For: SYSTEM AND METHOD FOR SINGLE-ENDED LINE ANALYSIS FOR QUALIFICATION AND MAPPING

Dear Mr. Eareckson:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
EUGENE LEDONNE
REED SMITH
375 PARK AVENUE
17TH FLOOR
NEW YORK, NY 10152

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAILED

MAY 3 1 2005

Technology Center 2100

In re Application of:
Jack Littleton
Application No. 09/729,622
Filed: November 30, 2000
For: SYSTEM AND METHOD FOR PROVISIONING TELEPHONY SERVICES VIA A PERSONAL DIGITAL ASSISTANT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 18, 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

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF TOWER
121 South Eighth Street
Minneapolis, MN 55402

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

SKJERVEN MORRILL MACPHERSON
3 EMBARCADERO CENTER
SUITE 2800
SAN FRANCISCO, CA 94111

COPY MAILED

NOV 1 9 2001

OFFICE OF PETITIONS

In re Application of :
Yen-Jen Lee et al :
Application No. 09/729,637 : ON PETITION
Filed: December 1, 2000 :
Attorney Docket No. M-10529 US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 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 February 1, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 2, 2001.

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

The application file is being forwarded to Initial Patent Examination Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Charles C. Fowler
LYON & LYON LLP
633 West Fifth Stree, Suite 4700
Los Angeles, CA 90071-2066

MAIL

SEP 1 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
McNulty et al.
Application No. 09/729,638
Filed: December 1, 2000
For: REAL-TIME CONTEXT-SENSITIVE CUSTOMIZATION OF USER-REQUESTED CONTENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 3, 2002.

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

The request is signed by Charles C. Fowler alone and does not contain a clear indication that Mr. Fowler is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address

to ensure receipt of all communications from the Office.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Lawrence Perry, Esq.
Fitzpatrick, Cell, Harper & Scinto, LLP
30 Rockefeller Plaza
New York, NY 10112

COPY MAILED

NOV 07 2003

OFFICE OF PETITIONS

In re Application of :
Kenneth Jacobs, et al. :
Application No. 09/729,674 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 1290.1018-008 :

This is a decision on the petition, filed October 10, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 14, 2002, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed April 9, 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). Since the 3-month extension of time submitted with the petition on October 10, 2003, was subsequent to the maximum extendable period for reply, the $940.00 extension fee is unnecessary and will be credited to petitioner'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 1653 for consideration of the amendment filed October 10, 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACK SHERMAN, LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET. S.E.
CEDAR RAPIDS, IA 52401

COPY MAILED

AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Robert C. Meier :
Application No. 09/729,676 : DECISION GRANTING PETITION
Filed: December 2, 2000 : UNDER 37 CFR 1.47(b)
For: MOBILE VIRTUAL NETWORK :
SYSTEM AND METHOD :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed May 21, 2001. The petition was recently forwarded to this office for review.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of John H. Sherman and the copies of the letters sent to the inventor establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Norand Corporation, now known as Intermec IP Corp. (Intermec), has a proprietary interest in the above-identified application with the copy of the "Employee Confidentiality and Invention Assignment Agreement" showing that the inventor had an obligation to assign any patent rights to Intermec. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to preserve the rights of Intermec.

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

As provided in Rule 1.47(b), 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 will be returned to the Publishing Division.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT C. MEIER
2975 CLEAR CREEK DRIVE
CUYAHOGA FALLS, OH 44223

COPY MAILED

AUG 31 2005

OFFICE OF PETITIONS

In re Application of
Robert C. Meier
Application No. 09/729,676
Filed: December 2, 2000
For: MOBILE VIRTUAL NETWORK SYSTEM
AND METHOD

Dear ROBERT C. MEIER:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. 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).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JACK SHERMAN, LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET. S.E.
CEDAR RAPIDS, IA 52401

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACK SHERMAN, LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET. S.E.
CEDAR RAPIDS, IA 52401

COPY MAILED

AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Robert C. Meier :
Application No. 09/729,676 :
Filed: December 2, 2000 :
For: MOBILE VIRTUAL NETWORK :
SYSTEM AND METHOD :

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(b)

This is in response to the "Petition Under 37 CFR 1.47(b)," filed May 21, 2001. The petition was recently forwarded to this office for review.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of John H. Sherman and the copies of the letters sent to the inventor establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Norand Corporation, now known as Intermec IP Corp. (Intermec), has a proprietary interest in the above-identified application with the copy of the "Employee Confidentiality and Invention Assignment Agreement" showing that the inventor had an obligation to assign any patent rights to Intermec. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to preserve the rights of Intermec.

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

As provided in Rule 1.47(b), 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 will be returned to the Publishing Division.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MAILED

APR 2 8 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CAROL CLAYTON
WILMER, CUTLER & PICKERING
2445 M. STREET, N.W.
WASHINGTON DC 20037-1420

In re Application of :
Brown et al. :
Application No. 09/729,704 :
Filed: December 6, 2000 :
For: HAND-HELD IMAGE CAPTURE APPARATUS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 10, 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 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: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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)
6,427,718	2002-08-06	09729713	2000-12-06	P09542US00/RFH

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ROSS F. HUNT, JR./	Date (YYYY-MM-DD)	2008-08-04
Name	Ross F. Hunt, Jr.	Registration Number	24082

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6427718
Issue Date: August 6,2002
Application No. 09729713
Filed: December 6,2000
Attorney Docket No.

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

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

The petition is GRANTED.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 05/11/09

TO SPE OF : ART UNIT 2141

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

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

Comments:

No new matter was introduced, nor would the scope or meaning of the claims be changed.

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

QUANG N NGUYEN
PRIMARY EXAMINER

OIPE
JUL 21 2008
PATENT & TRADEMARK OFFICE

09/729810

Copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Shao, et al.	Application No. 09/729,810
Patent No.: 7,302,463	Attorney Docket No.: OID-2000-006-02
Issued: November 27, 2007	**REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323**

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

Dear Sir/Ma'am:

Pursuant to 37 CFR § 1.323, Applicant submits a Certificate of Correction correcting clerical errors or mistakes minor in character in the printed patent. The desired correction is set forth on the enclosed form PTO/SB/44.

These corrections do not involve changes, which would (1) constitute new matter or (2) require reexamination. *In re Arnott*, 19 USPQ 2d 1049, 1052 (Comm'r Pat. 1991).

As this correction is due to Applicant's error, please charge the fee of $100, as set forth in § 1.20(a), to Deposit Account 150635.

Respectfully submitted,

Certificate
JUL 23 2008
of Correction

Kim Kanzaki, Ph.D.
Reg. No. 37,652

Date: 7/9/08

Oracle International Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065
Tel: 650-506-0230

07/22/2008 MGEBREM2 00000009 150635 7302463
01 FC:1811 100.00 DA

Attachment

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Patent Publication
JUL 23 2008

APPROVED: /QN/

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PTO/SB/44 (09-07)
Approved for use through 08/31/2010. 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. : 7,302,463

APPLICATION NO.: 09/729,810

ISSUE DATE : November 27, 2007

INVENTOR(S) : Shao, et al.

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

On the face page, in field (56), under "Other Publications", in column 2, line 1, delete "Retreived" and insert - - Retrieved - -, therefor.

On page 2, under "Other Publications", in column 1, line 1, delete "Retreived" and insert - - Retrieved - -, therefor.

On page 2, under "Other Publications", in column 1, line 2, delete "pdf." and insert - - pdf, date unknown. - -, therefor.

On page 2, under "Other Publications", in column 2, lines 14-17, below "576.*"delete "Yahool; What is Yahoo!; Oct. 18th, 2000; Retreived from the Internet Archives (http://www.archive.org) at http://web.archive.org/web/20001018070000/help.yahoo.com/help/wallet/wallet-07.html. *".

On page 2, under "Other Publications", in column 2, lines 18-19, above "Christer" delete "Just Deals.com; Order Confirmation; Retreived from http://weinbeck.mit.edu/keyboard.pdf, date unknown.*".

On page 2, under "Other Publications", in column 2, line 26, delete "pages." and insert - - pages, date unknown. - -, therefor.

On page 2, under "Other Publications", in column 2, lines 27-29, below "pages." delete "State Intellectual Property Office of P.R.C., "Notification of the First Office Action," Application No. 02814466.X, dated Jul. 22, 2005, 4 pages.".

On page 2, under "Other Publications", in column 2, lines 30-31, below "pages." delete "Current Claims, Application No. 02814466.X, Claims 1-24, 4 pages, date unknown.".

RECEIVED-USPTO
Patent Publication

JUL 23 2008

APPROVED: /QN/

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PTO/SB/44 (09-07)
Approved for use through 08/31/2010. 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. : 7,302,463

APPLICATION NO.: 09/729,810

ISSUE DATE : November 27, 2007

INVENTOR(S) : Shao, et al.

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

In column 4, line 66, delete "from," and insert - - from - -, therefor.

In column 7, line 65, after "218" insert - - . - -.

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

Oracle International Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065
Tel: 650-506-0230

RECEIVED-USPTO
Patent Publication
JUL 23 2008

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

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

APPROVED: /QN/

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APPROVED: /QN/

Privacy Act Statement

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

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

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

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www.uspto.gov

Paper No. 17

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of
Kisaka et al.
Application No. 09/729,821
Filed: December 6, 2000
Attorney Docket No. 200496US0

ON PETITION

This is a decision in response to the papers filed January 8, 2003, which will be treated in part as a petition under 37 CFR 1.53 to correct filing date issues and as a petition under 37 CFR 1.181 to refund fees.

The petition under 37 CFR 1.53 is **granted**.

The petition under 37 CFR 1.181 is **granted**.

Facts:

The application was filed on December 6, 2000. On the same date, an IDS and 14 cited references were submitted.

At an unspecified time, the application papers were intermingled with the cited references. As a result, the application was improperly processed using the papers from a cited reference - International Publication Number WO 95/09911.

Petitioner was improperly charged fees for excess claims due to the processing of the incorrect papers.

The application file was subsequently sent to the Technology Center for examination. On an unspecified date, an individual in the Technology Center replaced the papers from the cited reference with a copy of the application papers originally submitted. Since that time, prosecution has been based on the copy of the application papers.

Although the papers were changed in the file, the electronic image of the application papers (WO 95/09911) was not corrected. On June 6, 2002, the application was published based on the electronic image of the incorrect papers.

In response, the instant petition was filed on January 8, 2003.

Analysis:

A review of the file indicates that the application papers listed on the postcard receipt and transmittal form were present on December 6, 2000, although placed within the cited references. Therefore, relief under 37 CFR 1.53 is proper and both the file and electronic records will be corrected.

Since the correct application papers do not include excess claims or multiple dependent claims, $746 will be credited to petitioner's deposit account. The correct application papers filed on December 6, 2000, included a signed declaration. Therefore, the $130 fee previously charged to petitioner's deposit account, based on the filing of a declaration after the filing of the application, will be credited to petitioner's deposit account.

The file will now be forwarded to the Office of Patent Legal Administration to render a decision on the petition under 37 CFR 1.182 which requests republication of the instant application. Thereafter, the file will be forwarded to the Office of Initial Patent Examination to process the application with a filing date of December 6, 2000, using the 76 pages of specification and claims, the 21 pages of drawings, and the 3 pages of declaration originally filed on December 6, 2000.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 0 2 2004

OFFICE OF PETITIONS

Applicant: Kisaka et al.
Appl. No.: 09/729,821
Filing Date: December 6, 2000
Title: TRANSGENIC PLANTS THAT EXHIBIT ENHANCED NITROGEN ASSIMILATION
Attorney Docket No.: 200496US0
Pub. No.: US 2002/0069430 A1
Pub. Date: June 6, 2002

This is a decision on the petition under 37 CFR 1.182 to request a corrected patent application publication more than two months after the date of publication as provided in 37 CFR 1.221(b), filed on January 8, 2003 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because published application includes the specification of another application, which was filed in an information disclosure statement with the application.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." The request for corrected publication received on April 2, 2003, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the Office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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DAVIDSON BERQUIST KLIMA & JACKSON, LLP
4501 NORTH FAIRFAX DRIVE, SUITE 920
ARLINGTON, VA 22203

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JUL 2 9 2004

OFFICE OF PETITIONS

#20

In re Application of :
James M. Hair III et al :
Application No. 09/729,853 : NOTICE
Filed: December 6, 2000 :
Attorney Docket No. PM 0271810

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

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

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

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

This file is being forwarded to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology center 1700.

Mailed: JUL 27 2004

rvk
Paper Number:

In re application of :
Jean-Charles J.C. Cotteverte et al. : DECISION ON
Serial No. 09/729,882 : PETITION
Filed: December 05, 2000 :
For: METHOD OF MAKING AN INTEGRATED OPTICAL CIRCUIT :

This is a response to the "CONSIDERATION TO WITHDRAWAL HOLDING OF ABANDONMENT UNDER 37 CFR 1.181", filed March 19, 2004. The request asks that the abandonment, as set forth in the Notice of Abandonment of Mach 10, 2004, for failure to timely file a proper response to the Office letter dated March 20, 2003 be withdrawn. The requester asserts that applicants timely filed a Notice of Appeal on June 18, 2003 and Appeal Brief on August 13, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitoner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of March 20, 2003 in a timely manner. The evidence provided includes : 1) a copy of Notice to Appeal sent by Facsimile as evidenced by the Auto-Reply Facsimiled Transmission indicating receipt of the Notice of Appeal by the USPTO on June 18, 2003 (Exhibit 4); and 2) a copy of Appeal Brief with an executed Certificate of Express Mail dated August 13, 2003 as evidenced by the returned stamped postcard confirming receipt of the Appeal Brief by the USPTO dated August 13, 2003 (Exhibit 5).

Therefore, the abandonment dated March 10, 2004 was in error. A review of the instant application file indicates that this error was administrately corrected via

Notice of Rescinded Abandonment dated June 02, 2004. Therefore, no further action is required.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

DATE 9-20-07 APPLICATION NUMBER 09/729888

DOC CODE petdec.tc DOC DATE 09/21/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Copelan : DECISION ON PETITION
Application No. 09/729,888 :
Filed: December 4, 2000 :
Docket No.: PRE-SURGICAL SAFETY, :
WARNING, NOTIFICATION, AND/OR :
ALERTING DEVICE :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 2, 2006 for failure to timely reply to the non-final Office action mailed November 1, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed June 9, 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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700 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

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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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JUN 2 0 2002

OFFICE OF PETITIONS

Applicant: Houshang Lolachi et al.
Appl. No.: 09/729,924
Filing Date: December 6, 2000
Title: STERILITY-MAINTAINING CONNECTION SYSTEM FOR MEDICAL SYSTEMS AND USE THEREOF
Attorney Docket No.: P66152US0
Pub. No.: US 2001/0012930 A1
Pub. Date: August 9, 2001

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 26, 2001 for the above-identified application. This is also in response to the request to change the order of the inventor's names, filed July 24, 2001, which has been treated as a petition under 37 CFR 1.182.

The request for a corrected publication is granted-in-part.

The petition under 37 CFR 1.182 is granted.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . .. The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." Although applicant contends that the Office published the names of the inventors in the wrong order, the declaration filed on March 19, 2001, listed the inventors as Siegfried Ebner, Houshang Lolachi and Hans-Jurgen Neumann, thus the patent application publication listed in the correct order as provided by 37 CFR 1.215(a). Since there was no mistake in the order of the names on the patent application publication, the request for a corrected publication under 37 CFR 1.221(b) cannot be granted on this basis. The omission of figure 7c, however, in the circumstances of this application is considered a material error, and a corrected publication will issue to correct this error.

Applicant's request to change the order of the inventors, filed on July 24, 2001, has been treated as a petition under 37 CFR 1.182. See MPEP 605.04(f). During a telephone call on June 18, 2002, applicant's representative Mr. Johnathan Scherer authorized payment of the petition fee $130.00 to Deposit Account No. 06-1358 .

The corrected patent application publication will be published in due course. Although 37 CFR 1.215(a) provides that patent application publications are based upon the patent

application as filed, and any subsequently filed papers required to complete the application, since the current processing of corrected patent applications involves re-exporting the data to compile the patent application publication, the change in the order of inventorship will be included in the patent application publication.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 22 2003

Director's Office
Group 3700

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Paper No. 15

In re Application of
LOLACHI ET AL.
Application No.: 09/729,924
Filed: December 06, 2000

DECISION ON PETITION

This is a decision on petitioner's request filed March 5, 2003 to review the holding of abandonment for failure to respond to the Office action of March 7, 2002. While a Notice of Abandonment has not been mailed, the application is technically abandoned since the period for response has expired.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated June 5, 2002.

In view of the above, the holding of abandonment is in error and is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 1, 2005

H. Warren Burnam, Jr
NIXON & VANDERHYE, P.C.
1100 North Glebe Road 8th Floor
Arlington, VA 22201

Patent No: 6901057 B2
Applicant: Johan Rune, et al.
Issued: May 31, 2005
Title: **INTELLIGENT PICONET FORMING**

Request for Certificate Of Correction:

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

Comparison of the patent title page item (22) reveals that there is no discrepancy.
"The Foreign Application was filed on December 6, 1999 as evidenced by your postcard receipt and the original Filing Receipt".

In view of the foregoing your request in these matters are hereby **denied**.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 305-1882

vt

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MAIL

Paper No. 10

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

JAN 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
VITO A. SPINELLI
Application Serial No.: 09/729,960
Filed: December 6, 2000
For: AUTOMATIC DOOR ASSEMBLY WITH VIDEO IMAGING DEVICE

DECISION ON PETITION

This is a decision on the petition, filed on August 20, 2002 under 37 C.F.R. §1.181 to have the examination of the application conducted in art unit 3620, subclass 49 (closures).

Petitioner's request is **DENIED**.

Relevant sections of the MPEP relating to this issue, are reproduced below.

> 902.01 Manual of Classification
> The Manual of Classification is the key to the U.S. Patent Classification System. It is usually published in full as the Basic Manual every 2 years. Basic Manuals reflect current classifications as of December of even-numbered years. Revisions to the Basic Manual occur at 6-month intervals. Pages of the Manual revisions are inserted as replacements to update the previous versions.
> The Manual of Classification contains ordered arrangements of the class and subclass titles, referred to as class schedules. These titles are necessarily brief, although they are intended to be as suggestive as possible of subject matter included. Therefore, it is best not to depend exclusively upon titles to delineate the subject matter encompassed by a class or subclass. Reference to respective definitions and notes is essential. [emphasis added]
>
> 903.07 Classifying and Cross-Referencing at Allowance
> If the mandatory classifications are in different classes, the original classification is determined by considering, in turn, the following criteria:
> (A) selection based on the most comprehensive claim,
> (B) selection based on priority of statutory category of invention,
> (C) selection based on superiority of types of subject matter, and
> (D) selection among classes in the "related subject " listing at the front of the manual of classification.
> It should be noted that the criteria, supra, may be superseded by
> (A) special circumstances, e.g., superconductor technology and biotechnology are superior to all other subject matter,
> (B) prior placement of patents for a particular body of art, or
> (C) particular class lines and class notes.
> Once the controlling class is determined, classification within the class is determined

by the hierarchy of the class. [emphasis added]

601.05 Bibliographic Information - Application Data Sheet (ADS)
Although the submission of the information related to a suggested classification and TC is desired for both provisional and nonprovisional applications, the Office will not be bound to follow such information if submitted, as the Office will continue to follow its present procedures for classifying and assigning new applications. [emphasis added]

Petitioner has requested the examination of the instant application be conducted in art unit 3620 which examines Class 49 (Closures).

The claims of the present application recite a system which generates a series of video images which control a closure system. A text search of Class 49 resulted in only one patent with the term "video" in the claims, that patent only reciting a generic video system.

Based upon the US Classification system, the definitions for Class 49 (Closures), the definitions for Class 348 (Television), and the most comprehensive claim being directed to video control system details, the controlling class is Class 348 (Television). The instant application is not properly classifiable in Class 49.

The suggested classification, according to MPEP 601.05, is appreciated. However, the application is appropriately classifiable under Class 348.

The application will be returned to the art unit responsible for examination of Class 348, for assignment and processing in appropriate turn.

Allen MacDonald

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

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Henricks, Slavin & Holmes LLP
840 Apollo Street, Suite 200
El Segundo, CA 90245

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MAR 03 2005

Director's Office
Group 3700

In re application of
Jenkins et al.

Serial Number: 09/730010
Filed: December 04, 2000

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **LOOP STRUCTURE INCLUDING INFLATABLE THERAPEUTIC DEVICE**

The above-identified application is withdrawn from issue after payment of the issue fee to correct informality of filed oath.

The above-identified applicant is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the applicant.

Telephone inquiries should be directed to Henry Bennett at (571) 272-4791.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch, Director
Technology Center 3700
(571) 272-3750

rt/ 3/2/05

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Paper No. 18

Daniel S. Polley, Esq.
Malin, Haley & DiMaggio, P.A.
1936 South Andrews Avenue
Ft. Lauderdale, Florida 33316

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of :
Robert M. CARMICHAEL :
Application No. 09/730,116 : DECISION ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. 9297.6817 :

This is a decision on the petition, filed November 15, 2002, requesting (1) pursuant to 37 CFR §§1.181-1.183 "for permission to herein claim priority to U.S. Application No. 09/628,836 ('836), and (2) to be listed as a co-inventor in the '836 application.

The petition considered under 37 CFR 1.181, or 1.182, or 1.183, in this application is DISMISSED.

The petition to amend the inventorship in the '836 is dismissed as immaterial to the above-identified application.

BACKGROUND

The instant application was filed on December 5, 2000 naming Robert M. Carmichael as the sole inventor.

The instant application is asserted to be related to application no. 09/628,836, filed July 31, 2000, the express abandonment of which was recognized by the USPTO on September 19, 2001. The application named Sergio Angelini as the sole inventor. The assignee of record is Johnson Outdoors Inc.

The instant application is also asserted to be related to application no. 09/916,414, filed July 26, 2001, now US Pat. No. 6,527,480, issued on March 4, 2003. The application named Sergio Angelini and Robert Carmichael as joint inventors. The assignee of record is Johnson Outdoors Inc.

STATUTE AND REGULATION

35 U.S.C. 120 provides, in part:

> An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application, shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application, and if it contains or is amended to contain a specific reference to the earlier filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

37 CFR 1.78(a)(1) states, in part:

> (a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112.

37 CFR 1.78(a)(2) states, in part:

> (2)(I) Except for a continued prosecution application filed under §1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see §1.14).
>
> (ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(I) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:
>
> (A) An application for a design patent;
> (B) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
> (C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

37 CFR 1.78(a)(3) states:

> (3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C.

120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(I) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

37 CFR 1.48(a) states:

(a) *Nonprovisional application after oath /declaration filed.* If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. If the nonprovisional application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship 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 (see § 3.73(b) of this chapter).

37 CFR 1.182 *Questions not specifically provided for.*

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h).

§ 1.183 *Suspension of rules.*

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

OPINION

Taking the latter request first, any request to amend the inventive entity of the '836 application must be presented as a separate paper specifically captioned for that application. See 37 CFR 1.4(b), (c). In other words, consideration of the merits of the instant petition is limited to the extent that it applies to the instant application, for which it is captioned.[1]

---

[1] Petitioner is advised that the USPTO will consider a petition under 37 CFR 1.48 to amend the inventorship of an abandoned application if that petition, expressly captioned for that application is also accompanied by a petition under 37 CFR 1.182 likewise captioned for the abandoned application, and the appropriate fees. Before presenting any such petitions in the '836 application, petitioner should consider that any forthcoming petition under 37 CFR 1.48 would necessarily require the consent of the assignee of the entire interest of the originally named inventor(s), and that petitioner has acknowledged that the assignee of the '836 application chose to correct the inventive entity by filing a continuation application in lieu of amending the inventive entity of the '836 application under the provisions of 37 CFR 1.48.

As to consideration of the petition under 37 CFR 1.181, it is noted that the examiner has instituted and maintained, *inter alia*, a rejection of the claims under 35 U.S.C. 102(f) over the '836 application, which rejection is grounded on the fact that there is no common inventor between the '836 application and the instant application. See e.g., Office action of January 31, 2003, ¶ 5. It is noted that, by its terms, 37 CFR 1.181 only permits review, on petition, of matters that are not also subject to review on appeal. See 37 CFR 1.181(a). Since any forthcoming review of that rejection is committed by statute and regulation to the Board of Patent Appeals and Interferences, the issue will not be further considered on petition under 37 CFR 1.181. In this regard, it is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between matters which are appealable, and those which are petitionable. MPEP 1201. It is well settled that the Commissioner will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board of Patent Appeals and Interferences. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971). Accordingly, the petition considered under 37 CFR 1.181 is dismissed.

As to consideration of the petition under 37 CFR 1.182, that regulation, by its terms, only applies where no other regulation speaks to the issue. Since 37 CFR 1.78 specifically sets forth the conditions of whether, and how, benefit of an earlier non provisional application may be claimed, then 37 CFR 1.182 is not properly invoked in this instance. 37 CFR 1.182 applies only where other rules are inapplicable. Furthermore, 37 CFR 1.78(a)(1) requires *inter alia*, that "each prior-filed application [of which benefit is sought] must name as an inventor at least one inventor named in the later- filed application." Petitioner admits that he is not named as an inventor in the '836 application, and inspection of this application fails to reveal that the inventor of the '836 application is also named as an inventor herein. Thus, there simply is no common inventor between the '836 and instant application. But see 37 CFR 1.78. 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As such, the petition considered under 37 CFR 1.182 is likewise dismissed.

As to consideration of the petition under 37 CFR 1.183, that regulation, by its terms, may not be invoked to waive any requirement of the rules that is also a requirement of the patent statute. However, 35 U.S.C. § 120 conditions a claim for benefit of a prior application, *inter alia*, on there herein being named "an inventor or inventors named in the previously filed application." While, as noted above, that requirement of the statute is admittedly lacking herein, 37 CFR 1.183

simply cannot be invoked--or properly applied-- to override that requirement of law as such is beyond the authority, much less the discretion, of the USPTO. Since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute. See A.F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977). That is, the USPTO simply lacks the authority or the discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A.F. Stoddard v. Dann, Id. Accordingly, the petition considered under 37 CFR 1.183 is likewise dismissed.

This application is being forwarded to Technology Center Art Unit 3617 for examination in due course.

Any inquiries concerning this decision may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.

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

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TRANSNATIONAL ENTERPRISES, INC.
95 BULLDOG BLVD.
SUITE 207
MELBOURNE, FL 32901

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 09/730,177 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. SO-405 :

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed December 1, 2004, by facsimile, to revive the above-identified application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely reply to the final Office action mailed May 21, 2004. Accordingly, this application became abandoned on August 22, 2004. A Notice of Abandonment was mailed on December 1, 2004.

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

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

(2) The petition fee as set forth in § 1.17(l);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks item (2) above.

The required $55.00 petition fee has not been submitted. As such, the petition may not be reviewed on the merits at this time and must be dismissed. Please note, effective December 8, 2004, this fee has increased to $250.00.

Please note, if petitioner wishes to assert non-receipt of an Office action, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181. A petition under 37 CFR 1.181 to withdraw the holding of abandonment should be submitted to Technology Center 3700 and not the Office of Petitions.

Furthermore, please note, the showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Additionally, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to the instant petition under 37 CFR 1.137(b) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

cc.
TRANSNATIONAL ENTERPRISES, INC.
78 CYPRESS STREET
MILLBURN, NJ 07041

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TRANSNATIONAL ENTERPRISES INC
ATTEN: B.K. NIYGGI
78 CYPRESS STREET
MILLBURN, NJ 07041

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 09/730,177 :
Filed: December 5, 2000 :
Attorney Docket No. SO-405 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 4, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **dismissed**.

This application became abandoned for failure to timely reply to the final Office action mailed May 21, 2004. Accordingly, this application became abandoned on August 22, 2004. A Notice of Abandonment was mailed on December 1, 2004.

Petitioner contends the Office action was never received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993) and MPEP 711.03(c).

The required copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and referenced in practitioner's statement has not been submitted. As such, the petition must be dismissed.

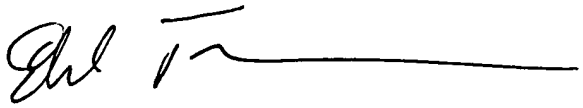
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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 may be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRANSNATIONAL ENTERPRISES INC
ATTEN: B.K. NIYGGI
78 CYPRESS STREET
MILLBURN, NJ 07041

COPY MAILED

APR 2 5 2006

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 09/730,177 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. SO-405 :

This is a decision on the papers styled "Petition for Revival of a Patent Application No. 09/730,177 unavoidably abandoned", filed February 1, 2006, which has been treated as a petition under 37 C.F.R. § 1.137(a), to revive the unavoidably abandoned above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely reply to the final Office action mailed May 21, 2004. Accordingly, this application became abandoned on August 22, 2004. A Notice of Abandonment was mailed on December 1, 2004.

The required $250.00 petition fee (*see* 37 CFR 1.17(l)) has not been submitted. As such, the petition cannot be reviewed on the merits at this time and must be dismissed.

Further correspondence with respect to the instant petition under 37 CFR 1.137(a) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRANSNATIONAL ENTERPRISES INC
ATTEN: B.K. NIYGGI
78 CYPRESS STREET
MILLBURN, NJ 07041

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APR 26 2006
OFFICE OF PETITIONS

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APR 25 2006
OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 09/730,177
Filed: December 5, 2000
Attorney Docket No. SO-405

ON PETITION

This is a decision on the papers styled "Petition for Revival of a Patent Application No. 09/730,177 unavoidably abandoned", filed February 1, 2006, which has been treated as a petition under 37 C.F.R. § 1.137(a), to revive the unavoidably abandoned above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely reply to the final Office action mailed May 21, 2004. Accordingly, this application became abandoned on August 22, 2004. A Notice of Abandonment was mailed on December 1, 2004.

The required $250.00 petition fee (*see* 37 CFR 1.17(l)) has not been submitted. As such, the petition cannot be reviewed on the merits at this time and must be dismissed.

Further correspondence with respect to the instant petition under 37 CFR 1.137(a) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIDYUT NIYOGI
TRANSNATIONAL ENTERPRISES INC
78 CYPRESS STREET
MILLBURN NJ 07041

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of :
CHANG HYUN LEE, et al :
Application No. 09/730,177 : DECISION ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. SO-405 :

This is a decision on the RENEWED petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 19, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 26, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 27, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). **The instant petition lacks items (1) and (3).**

The petition[1] to revive under 37 CFR 1.137(a) was filed on February 1, 2006 and dismissed on April 25, 2006 for lack of the required fee. The required fee was submitted with the renewed petition on June 19, 2006. The decision is based on the evidence submitted with the original petition filed on February 1, 2006.

Regarding item (1) the required reply.

The petition is not accompanied by the required reply.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 26, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

A copy of the final Office action mailed on March 26, 2004 is attached for petitioner's convenience.

Regarding item (3) the showing the entire delay was unavoidable.

Petitioner states that the application was unavoidably abandoned because applicant never received the Office action mailed on March 26, 2004. Petitioner further states that he does not maintain any docket records and accordingly does not have evidence of non-receipt of the office action. In support of the instant petition, petitioner states that a copy of the file jacket contents and records are attached.

A review of the USPTO file record indicates no irregularity in the mailing of the office communications, and, in the absence of any irregularity, there is a strong presumption that the office communication was properly mailed to the practitioner at the address of record.

The evidence of record points to a conclusion that the applicant did not receive the Office action because applicant failed to properly notify the USPTO of a change in correspondence address. In a letter to the client dated June 19, 2003, petitioner informs the client that his office in Melbourne, Florida will be officially closed as of June 30, 2003. Their new office and address will be 78 Cypress St., Millburn, New Jersey, 07041.

The USPTO file record shows that a change of correspondence address in the application was not filed until January 4, 2005 long after the application became abandoned. It appears that applicant did not realize a change of address was necessary until informed of the discrepancy in a petition decision dated December 16, 2004 by the USPTO. Prior to the change of address filed on January 4, 2005, all correspondence from the USPTO in the application including the final office

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[1] It is noted that petitioner did not sign page 2 of the petition request PTO/SB/61 to revive an application abandoned unavoidably under 37 CFR 1.137(a). However, petitioner's signature on page 3 is taken to be required signature for the petition in accordance with 37 CFR 1.4.

action dated March 26, 2004 and the Notice of Abandonment dated December 1, 2004 were mailed to 95 Bulldog Blvd., Suite 207, Melbourne, Florida 3290, the official correspondence address of record, even though the attorney of record closed the office at the address of record in June 2003. It took petitioner at least 18 months to inform the USPTO of the change in correspondence address as a result of notification by the USPTO.

A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the U.S. Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute a proper notification of a change of address. In the instant application, it appears that applicant did not exercise due care or diligence by failing to take any steps to promptly notify the USPTO of a change of correspondence address and as a consequence there is no showing that the abandonment was unavoidable.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 (under small entity status) petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

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 Amelia Au at (571) 272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Final Office action dated March 26, 2004

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.
09/730,177	12/05/2000	Chang Hyun Lee	SO-405	8039

7590 03/26/2004

Transnational Enterprises, Inc.
Ste 207
95 Bulldog Blvd.
Melbourne, FL 32901

EXAMINER	
GRANT, ALVIN J	

ART UNIT	PAPER NUMBER
3723	9

DATE MAILED: 03/26/2004

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

Office Action Summary	Application No.	Applicant(s)	
	09/730,177	LEE ET AL.	
	Examiner	Art Unit	
	Alvin J Grant	3723	

– 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 *21 May 2002*.

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) *8-19* 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) *8-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: Attachment A

Notice

Neither the amendment filed on 17 April 2002 nor the amendment filed on 15 May 2002 complied with Rule 121 as it stood at the time of filing of either of these amendments. However, as the office has just recently been made aware of the 15 May 2002 amendment, both amendments will be accepted and considered together under rule 135(c) as set forth in MPEP 710.01 as a response so that the merits of the application will be examined. The Examiner is able to act on the claims but the amendments made to the specification have not been made. Any reply to this action must be in conformance with 37CFR 1.21 in its current form as amended effective on 30 July 2003. Please note a copy of the updated version of Rule 121 is attached to this office action for your convenience.

DETAILED ACTION

Claim Objections

Claims 8, 11, 12, 14, 15, 16, 17 and 19 are objected to because of the following informalities:

- Claim 8, in the last line, change "with predetermined intervals" to read, "at predetermined intervals".
- Claim 11, line 1, change "comprising" to read, "comprises"; and in line 2, change "which are" to read, "and located".
- Claim 12, line 2, change "with respect to on both sides" to read, "respectively on both sides".
- Claim 14, change "increase the ring portion to the periphery" to read, "increase from the ring portion toward the periphery"
- Claim 15, line 4, change "gradually according as" to read, "gradually as".
- Claim 16, line 1, change "comprising" to read, "comprises"; and in line 2, change "which are" to read "located".
- Claim 17, line 2, change "with respect to on both side surfaces" to read, "respectively on both side surfaces".

- Claim 19, line 3, change "according as" to read, "as".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

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.

Claims 8-19 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.

Claim 1, lines 11 and 12, recite the limitation "surface of the circular steel disk are radially overlapped in position with the wings on the other side surface" which is awkwardly and confusingly worded.

Claims 10 and 15 recite the limitation "both arcs" in 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ji '017 in view of Achterberg '786.

Ji discloses a saw blade comprising a steel disk including an opening at the center for connecting with a shaft of a motor-driven tool and particulate bearing layer on both surfaces of the steel disk, a plurality of streamlined wings extending from the ring portion to the periphery of the steel disk, the streamlined wings are formed on both side surfaces of the steel disk so that the first streamlined wings are formed on both side surfaces of the steel disk are overlapped with second streamlined wings attached on the other side

surface ; the first streamlined wings on one side surface of the circular steel disk are overlapped in a full and aligned manner with the second streamlined wings on the other side surface of the circular disk; the steel disk comprises a plurality of slits on its outer periphery at predetermined intervals between the cutting segments; and the cutting segments are turbo-type defined as planar jig-jag profiles with respect to both sides of the cutting surface. Ji does not specifically disclose that the blade contained slits on the periphery at predetermined intervals with holes with sizes increasing from the center toward the periphery of the blade. Achterberg discloses a saw blade containing slits located at predetermined intervals along the periphery and holes with sizes increasing from the center to the periphery of the saw blade so as to improve the cutting ability of the blade and to aid in the dissipation of the heat contained therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the saw blade of Ji to have slits located at predetermined intervals along the periphery and holes with sizes increasing from the center to the periphery of the saw blade as taught by Achterberg, so as to improve the cutting ability of the blade and to aid in the dissipation of the heat contained therein.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Grant whose telephone number is (703) 305-3315. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on (703) 308-2687. 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).

ajg

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700

Notice of References Cited	Application/Control No. 09/730,177	Applicant(s)/Patent Under Reexamination LEE ET AL.	
	Examiner Alvin J Grant	Art Unit 3723	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,277,017 B1	08-2001	Ji, Beom Hyun	451/547
	B	US-Des. 382,786	08-1977	Achterberg et al.	D8/20
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

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

NON-PATENT DOCUMENTS

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENTS GALORE INTERNATIONAL, INC.
ATTN: BIDYUT K. NIYOGI
78 CYPRESS STREET
MILLBURN NJ 07041

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of
Chang Hyun Lee et al.
Application No. 09/730,177
Filed: December 5, 2000
Attorney Docket No: **SO-405**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 decision.

This application became abandoned August 23, 2004 for failure to file a timely response to the Final Office Action mailed March 26, 2004. Accordingly, a Notice of Abandonment was mailed December 1, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b) [1] however, the petition lacks item (1) above.

---

[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)).

With regard to item (1), petitioner has filed a petition to revive but has not provided the required reply. Petitioner must provide a reply to a Final Office action in the form of an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

This application will remain in an abandoned status until such time as the requirements set out in the Final Office Action mailed March 26, 2004 have been complied with.

Petitioner must submit a proper reply to the Final Office action mailed on March 26, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

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

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. 8

COUDERT BROTHERS LLP
333 SOUTH HOPE STREET
23RD FLOOR
LOS ANGELES, CA 90071

COPY MAILED

JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Zoran Falkenstein :
Application No. 09/730,185 : ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. 0070450-0012 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 29, 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 2800, Art Unit 2821 for further processing.

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100514

DATE : May 14, 2010

TO SPE OF : ART UNIT 2444

SUBJECT : Request for Certificate of Correction on Patent No.: 7,103,639

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:

The certificate of correction on US Patent No. 7,103,639 is approved

SPE: . **Art Unit** 2444

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

ANATOLY S. WEISER
3525 DEL MAR HEIGHTS ROAD, #295
SAN DIEGO, CA 92130

Mail Date: 04/21/2010

Applicant	: Alexander I. Poltorak	: DECISION ON REQUEST FOR
Patent Number	: 7653551	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/730,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2726** 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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OCT - 3 2005

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

In re Application of :
Falchuk, et al. :
Application No. 09/730,299 :
Filed: December 05, 2000 :
For: MEDICAL CONSULTATION MANAGEMENT SYSTEM :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on August 05, 2005. The delay in deciding this petition is sincerely regretted.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, received April 08, 2005.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/rjc 9/18/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 0 6 2003

Technology Center 2100

Paper No. 13

Laura A. Majerus
FULBRIGHT & JAWORSKI L.L.P.
865 South Figueroa Street
29 Floor
Los Angeles, CA 90017-2576

In re Application of:
Daniel Schreiber
Application No. 09/730,326
Filed: December 04, 2000
For: COPYRIGHT PROTECTION OF DIGITAL IMAGES TRANSMITTED OVER NETWORKS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 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 signed by Laura A. Majerus alone and does not contain a clear indication that Ms. Majerus is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant

is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

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Paper No. 14

RODGER H. RAST
11230 GOLD EXPRESS DRIVE
SUITE 310 MS 337
GOLD RIVER, CA 95670

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OCT 2 4 2003
OFFICE OF PETITIONS

In re Application of
Rast, Rodger H.
Application No. 09/730,327
Filed: December 5, 2000
Attorney Docket No. HardBLite-02

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 2, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed November 18, 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 December 19, 2002. A Notice of Abandonment was mailed on June 2, 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 Paralegal Liana Chase at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

J. Mark Hoch, Esq.
Elan Pharmaceuticals, Inc.
800 Gateway Boulevard
South San Francisco, CA 94080

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SEP 07 2004

OFFICE OF PETITIONS

In re Application of :
Varghese John, et al :
Application No. 09/730,329 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 00228-US-NEW3 :

This is a decision on the petition, filed June 2, 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 Rosemarie L. Celli appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. However, if Ms. Celli 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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 28, 2001, which set a shortened statutory period for reply of one (1) month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on May 2, 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. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9282. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center 1600, Art Unit 1653.

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

cc: Rosemarie L. Celli
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
John, et al.	:	
Application No. 09/730,329	:	DECISION ON PETITION
Filed: December 4, 2000	:	
Attorney Docket No. 015270-006460US	:	

This is a decision on the petition under 37 CFR 1.183, filed August 28, 2006.

Applicants have filed the instant petition, requesting waiver of 37 CFR 1.125(c), which requires that a substitute specification be submitted with markings showing all changes relative to the immediate prior version of the specification. Applicants explain that they previously filed a substitute specification (with appropriate mark-ups), and two subsequent amendments. The Examiner has objected to the amendments as containing new matter. Applicants state that they now are canceling the previously filed amendments and are reverting to the specification as filed. According to applicants, the substitute specification contains no new matter.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

In view of the facts and circumstances of this case, the petition under 37 CFR 1.183 is **GRANTED**.

The application file is being forwarded to Group Art Unit 1653 for consideration of the substitute specification and the amendment filed August 28, 2006.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK NY 10022

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Ken Liljegren et al :
Application No. 09/730,380 :
Filed: December 5, 2000 :
Attorney Docket No. 5432/01004 :

ON PETITION

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

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

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

---

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

The examiner of Technology Center AU 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : January 28, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/730,380

Applicant(s) :Ken Liljegren et al
Application No. :09/730,380
Filed :December 5, 2000

The above-identified application has been assigned Patent No. 6,849,659 and an issue date of February 1, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 1, 2005:

> "All reference to Patent No. 6,849,659 to Ken Liljegren et al of Denmark for PHARMACEUTICAL COMPOSITION CONTAINING CITALOPRAM appearing in the Official Gazette of February 1, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Thomas M. Champagne, Esquire
RABIN AND THOMAS, P.C.
SUITE 500
1101 FOURTEENTH ST. N.W.
WASHINGTON, DC 20005

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AUG 2 2 2001

OFFICE OF PETITIONS

In re Application of
de Souza, Pesserl, and Merry,
Application No. 09/730,383
Filed: December 6, 2000
For: E-COMMERCE APPLICATION SERVICE PROVIDER MICRO-BILLING METHOD AND SYSTEM

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 8, 2001 and accompanied by a three month extension of time within the maximum extendable time for reply from the Notice to File Missing Parts mailed January 17, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 6, 2000 without an executed oath or declaration and naming de Souza, Pesserl, and Merry, as joint inventors.

Accordingly, on January 17, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on June 8, 2001, a Response to the Notice to File Missing Parts was filed which contained the following items:

1) two separate Declarations for Patent application with Power of Attorney with each executed by one of the inventors and the late surcharge fee;
2) a copy of the Notice to file Missing Parts;
3) petition for three month extension of time and associated fee;
4) Petition under 37 CFR 1.47(a) and associated fee;
5) Assignments and the associated fees.

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), (2), and (4) set forth above.

As to item (1),Petitioner appears to demonstrate that Mr. Pesserl was only presented with the declaration and Power of Attorney. It is stated in paragraph 6 of the petition, signed by Mr. Thomas Champagne, that declarations were sent to Mr. de Souza and Mr. Pesserl by airmail and fascimile transmission, yet no proof was provided. Paragraph 7 states that communications were received back from Mr. Pesserl but not Mr. de Souza. Unless Mr. de Souza was presented with a copy of the application papers (specification, claims and drawings), Mr. de Souza could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to or refused the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. Paragraphs 8 and 9 of the petition explain that Douglas J. Ryder, an attorney acting on behalf of the Assignee, has made numerous attempts to contact Mr. de Souza. A declaration from Douglas J. Ryder, Attorney acting on behalf of the Assignee, has not been provided as evidence of his involvement and attempts to contact Mr. de Souza. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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. All the

inventors must be listed on the declaration that is executed. Furthermore, when there are joint inventors, the term "first and sole inventor" should not be utilized with respect to any of the inventors. The term should be "first and joint inventor". The claims of domestic priority under 119(e) and 120 should be included. It is noted that the first declaration has an attorney docket number of TPL 119 and lists de Souza, Passerl, and Merry as the inventors, with only de Souza signing. The second declaration has an attorney docket number of WEB2000-05 and lists de Souza and Merry as the inventors with only Merry signing. Therefore, there seems to be a mix-up between two different application files. The correct inventorship should first be determined and then an oath or declaration in compliance with 37 CFR 1.63 and 1.64 and executed by the appropriate inventors on behalf of themselves and the non-signing inventor is REQUIRED. See MPEP 409.03(a).

As to item (4), a statement of the non-signing inventor's last known address is missing and is required.

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

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

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

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

Telephone inquiries related to this decision should be directed to Lesley Morris at (703) 306-0028.

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. 10

DOUGLAS J. RYDER
TECHNOLOGY, PATENTS, AND LICENSING, INC.
300 NORTH BROAD STREET
DOYLESTOWN, PA 18901

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APR 1 0 2002

OFFICE OF PETITIONS

In re Application of
De Souza, et al.
Application No. 09/730,383
Filed: December 6, 2000
Title: E-COMMERCE APPLICATION SERVICE PROVIDER MICRO-BILLING METHOD AND SYSTEM

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed January 10, 2002.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Celso Candido de Souza in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a)

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

Law Office of John Schipper
Suite 808
111 N Market Street
San Jose CA 95113

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Jae SHIM, *et al.* :
Application No. 09/730,412 :
Filed: December 4, 2000 :
For: AUTOMATIC SPEAKER VOLUME AND MICROPHONE GAIN CONTROL IN A PORTABLE HANDHELD RADIOTELEPHONE WITH PROXIMITY SENSORS :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 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 satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** John F. Schipper is withdrawn from the record.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Jae Shim
5944 Killarney Circle
San Jose, CA 95138

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Gary L. Bush, Esq.
Andrews & Kurth, L.L.P.
600 Travis, Suite 4200
Houston, Texas 77002-2778

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OFFICE OF PETITIONS

In re Application of :
John A. Fitzgerald, et al. :
Application No. 09/730,414 : ON PETITION
Filed: December 4, 2000 :
Attorney Docket No. 131935B/FMC029/66.12265 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed January 18, 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 19, 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 Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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

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

Sherry Brinkley
Petitions Examiner

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801 CALIFORNIA ST.
MOUNTAIN VIEW CA 94041

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In re Application of :
James B. PITKOW et al. :
Patent No. 7,031,961 : NOTICE
Application No. 09/730,501 :
Filed: December 04, 2000 :
Attorney Docket No. **24207-08967**

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

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

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

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

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

I. ITEMIZATION OF THE DEFICIENCY PAYMENT

Following is a list of each particular type of fee that was erroneously paid as a small entity, the current fee amount for a non-small entity, the small entity fee actually paid, and the date of payment:

1. First maintenance fee was paid on October 19, 2009. The amount of $490 was paid. Under 37 CFR § 1.20(e), the current fee amount for third maintenance fee for a non-small entity is $980. Under 37 CFR §1.28(c)(2)(i), the deficiency amount owed based on this transaction is equal to the amount (previously) paid in error, i.e. $490.

2. The total deficient payment owed is $490.

II. PAYMENT OF THE TOTAL DEFICIENCY PAYMENT OWED

Please charge my Deposit Account No. 19-2555 in the amount of $490 to cover the above fees. The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2555.

PAGE 3/4 * RCVD AT 11/11/2009 9:42:16 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/43 * DNIS:2736500 * CSID:6509385200 * DURATION (mm-ss):01-10

UNITED STATES 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: AUG 12 2003

Paper No: 15

In re application of :
JiYang Yan et al. :
Serial No. 09/730,508 :
Filed: December 05, 2000 :
For: HIGH- TEMPERATURE AGING TOLERANCE CATALYZED ADSORBER SYSTEM FOR TREATING INTERNAL COMBUSTION ENGINE EXHAUST GAS :

DECISION ON PETITION

This is a decision on the PETITION TO EXPUNGE UNDER MPEP 724.05 AND RULE 59(b): PETITION TO EXPUNGE MATERIALS SUBMITTED UNDER MPEP 724, 724.02, AND 724.05, filed on June 26, 2003 which has been accepted as a timely petition, and is before the Group Director of Technology Center 1700 for consideration.

DECISION

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided, pursuant to MPEP 724.06 (August 2001)

Petitioner requests that a document entitled PROPRIETARY MATERIAL .., filed June 26, 2003 be expunged from the record. Petition states either: (A) that the information contains trade secret material, proprietary material and/or material which is subject to a protective order which has not been public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 C.F.R. 1.17(I) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with materiality being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". As soon as the applicant is advised by the examiner that the material submitted is not relevant to the patentability determination, the petition will be reconsidered.

The petition is **DISMISSED**.

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

Delphi Technologies, Inc.
Vincent A. Cichosz
1450 West long Lake
Troy, MI 48007

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

Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

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JAN 14 2003

OFFICE OF PETITIONS

In re Application of :
Hiroshi Nakamura :
Application No. 09/730,515 : ON PETITION
Filed: December 15, 2000 :
Attorney Docket No. 107156-00033 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee. In an application or patent, abandone3d 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. See MPEP 711.03(c)III(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to charge any additional fees due, the $1280 issue fee will be charged to petitioner's deposit account.

Petitioner is advised that the issue fee 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 Latrice Bond at (703) 308-6911.

---

[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. The request and pertinent attachments should be addressed to Box Issue Fee. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.

The application file is being forwarded to Technology Center AU 2653 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Paper No. 15

SYNGENT BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Eric R. Ward et al
Application No. 09/730,525
Filed: December 5, 2000
Attorney Docket No. PB/5-20757G

This is a decision on the petition, filed by facsimile transmission on September 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the Amendment, filed on September 9, 2003, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mary Kakefua appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Ms. Kakefuda desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Ms. Kakefuda, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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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).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1637 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

cc:

MARY KAFEFUDA
SYNGENT BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

MAILED

JAN 3 1 2005

Technology Center 2100

In re Application of:
Kerry Clendinning
Application No. 09/730,538
Filed: December 07, 2000
For: SYSTEM AND METHOD FOR COLLECTING, ASSOCIATING,NORMALIZING AND PRESENTING PRODUCT AND VENDOR INFORMATION ON A DISTRIBUTED NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 22, 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 November 22, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Andre L. Marais
SCHWEGMAN, LUNDBERT, WOESSNER & KLUTH, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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Paper No.

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

COPY MAILED

JAN 22 2008

OFFICE OF PETITIONS

In re Application of :
Julie Rae Kowald :
Application No. 09/730,573 : DECISION ON PETITION
Filed: December 7, 2000 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: 169.1918 :
Title: VISUAL LANGUAGE :
CLASSIFICATION SYSTEM :

This is a decision on the petition filed on July 24, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 27, 2006, 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 October 28, 2006. A notice of abandonment was mailed on April 19, 2007.

RELEVANT PORTION OF THE M.P.E.P..

Section 503 of the M.P.E.P., entitled "Application Number and Filing Receipt," sets forth, *in pertinent part*:

> RETURN POSTCARD
>
> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO

will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

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

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

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

ANALYSIS

With the present petition, Petitioner has asserted that a response was submitted to the Office on November 27, 2006. Petitioner has submitted a copy of this submission, along with a postcard receipt that establishes that both a "Response to Official Action, dated July 27, 2006" and a "Petition under 37 CFR 1.136 and Check for $120.00" were received in the Office on December 1, 2006.

Moreover, Petitioner has further included a copy of this submission, and it is noted that it contains a certificate of mailing dated November 27, 2006.

Additionally, it is noted that this same response has been located in the electronic file; therefore, it is clear that this response was received on December 1, 2006. Furthermore, Office records confirm that the fee that is associated with the filing of a request for a one-month extension of time was received in the Office on December 1, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the non-final Office action that was received on December 1, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

Pratt & Whitney
Patent Department
Mail Stop 132-13
400 Main Street
East Hartford CT 06108

COPY MAILED

NOV 25 2002

OFFICE OF PETITIONS

In re Application of :
Jones et al. :
Application No. 09/730,684 : ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. D-1460A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 2002, to revive the above-identified application. The petition was recently received in the Office of Petitions for a decision on the merits. The Office apologizes for the delay.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed September 13, 2001, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on December 14, 2001. A Notice of Abandonment was mailed on April 25, 2002.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, authorized payment of the petition fee, and made the proper statement of unintentional delay.

The file is being forwarded to Technology Center 3600 for review of the amendment filed on May 20, 2002.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 17

Michael Proksch
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
David G. Gesbert, et. al.	:	
Application No. 09/730,687	:	ON PETITION
Filed: December 5, 2000	:	
Attorney Docket No. 42390P15407X	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 21, 2004, to revive the above-identified application.

In response to the non-final Office action mailed December 9, 2003, petitioner submitted an Amendment, a Terminal Disclaimer under 37 CFR 1.321, and an authorization to charge, the listed deposit account, $1,330 for the petition to revive fee. As authorized, $1,330 has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2136, for 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

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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of
Tue Nguyen
Application No. 09/730,690
Filed: December 6, 2000
Attorney Docket No. SIM051

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed May 11, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid, December 29, 2003 using a Certificate of Mailing under 37 CFR 1.8 dated December 23, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center 2812 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

MOTOROLA ENERGY SYSTEMS GROUP
INTELLECTUAL PROPERTY DEPARTMENT
1700 BELLE MEADE COURT
LAWRENCEVILLE, GA 30043

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AUG 0 5 2003

OFFICE OF PETITIONS

In re Application of :
John Edward Herrmann :
Application No. 09/730,691 : ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. EN11021 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed January 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 on March 24, 2001.

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

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

Retta Williams

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

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)
6398061	2002-06-04	09730693	2000-12-06	

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	/Rick B. Yeager/	Date (YYYY-MM-DD)	2007-05-31
Name	Rick B. Yeager, Attorney	Registration Number	39434

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. 6398061
Issue Date: June 4,2002
Application No. 09730693
Filed: December 6,2000
Attorney Docket No.

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

This is a decision on the electronic petition, filed June 1,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 1,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Attention: Thomas W. Cole
NIXON PEABODY LLP
Suite 800
8180 Greenbore Drive
McLean, VA 22102

MAILED

NOV 24 2003

Director's Office
Group 3700

In re Application of :
Elichi KAWAMOTO :
Serial No. 09/730,754 : DECISION ON PETITION
Filed: December 7, 2000 :
For: NOZZLE AND ASPIRATOR WITH NOZZLE :

This is a decision on petitioner's request filed July 18, 2003 to review the holding of abandonment, mailed June 27, 2003 for failure to respond to the Office action of November 21, 2002.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated February 10, 2003.

In view of the above, the Notice of Abandonment mailed June 27, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A Bertsch

Richard Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764
IL

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Attention: Thomas W. Cole
NIXON PEABODY LLP
401 9th Street, NW
Suite 900
Washington DC 20004-2128

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In re Patent of	:	
Kawamoto	:	
Patent No. 6,938,838	:	
Issue Date: January 6, 2005	:	Decision on Request
Application No. 09/730,754	:	
Filing Date: December 7, 2000	:	
Attorney Docket No. 0169-32	:	

This is a decision on the request filed January 18, 2006, under 37 CFR 3.81(b) to accept the correction of the assignee data after the patent has issued.

The request under 37 CFR 3.81(b) is **granted**.

37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioners have met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Paper No. 14

Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

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In re Application of
Mark Tuszynski, et. al.
Application No. 09/730,790
Filed: December 5, 2000
Attorney Docket No. 041673-2047

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed December 19, 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 after midnight January 19, 2003.

In response to the Restriction Requirement, petitioner submitted with the instant petition $650 for the petition to revive fee, and an election.

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

The application file is being forwarded to Technology Center 1600, for further review of the election 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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MCKENNA LONG & ALDRIDGE
1900 K STREET, NW
WASHINGTON DC 20006

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Sang In Kim et al :
Application No. 09/730,836 : ON PETITION
Filed: December 7, 2000 :
Attorney Docket No. 8733.325.00 :

This is a decision on the petition, filed July 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. _____

Date : July 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Sang In Kim et al
Application No. :09/730,836
Filed :December 7, 2000

The above-identified application has been assigned Patent No. 7,081,936 and an issue date of July 25, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 25, 2006:

"All reference to Patent No. 7,081,936 to Sang In Kim et al of Korea for LIQUID CRYSTAL DISPLAY AND FABRICATING METHOD COMPRISING A HYDROPHILIC BUFFER LAYER HAVING A THICKNESS OF 10A TO 50A appearing in the Official Gazette of July 25, 2006 should be deleted since no patent was granted."

/Karen Creasy/

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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WASHINGTON, D.C. 20231
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Paper No. 10

SUGHRUE, MION ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

MAR 7 2003

In re Application of:
FUNAYA *et al.*
Application No. 09/730,849
Filed: December 07, 2000
Attorney Docket No. Q62153

DECISION
ON
PETITION

This is a decision on the petition filed August 19, 2002, and supplemented on February 04, 2003, to withdraw the holding of abandonment of the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the an Office action mailed on December 10, 2001. In the absence of a timely filed response, the application would have been abandoned by operation of law at midnight on March 11, 2002.

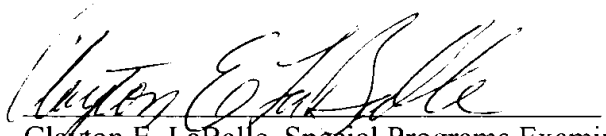
Petitioner contends that the above-identified Office action was not received. To support the petition, petitioner states that the Office action was not received and that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's docket record was submitted with the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition and supporting evidence satisfy the above-stated requirements. Accordingly, the petition is **granted**.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action dated December 10, 2001. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is remailed.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 500
1200 - 19th Street, NW
WASHINGTON DC 20036-2402

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OFFICE OF PETITIONS

In re Application of :
Glen Tindal et al :
Application No. 09/730,863 : DECISION ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. CNTW-003/00US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2006, to revive the above-identified application, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a proper reply to the final Office action, mailed March 13, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). A Notice of Abandonment was mailed on October 2, 2006.

In response to the final Office action of March 13, 2006, applicant filed an amendment, a $1,020 extension of time fee, and a $790 fee, which, according to the Electronic Acknowledgment Receipt and the Electronic Patent Application Fee Transmittal, is intended for the filing of a Request for Continued Examination (RCE) under 37 CFR 1.114. However, the Office held this application abandoned because an RCE form had not been completed. The $790 filing fee was subsequently refunded to petitioner's deposit account.

The rule at 37 CFR 1.114(a) states: "If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) ***." *Note also* MPEP 706.07(h). In the present application, applicant filed the submission and fee as set forth in § 1.17(e). While a formal form for filing an RCE was not completed and filed, it is noted that the Electronic Patent Application Fee Transmittal references a request for continued examination and fee of $790. Therefore, by the filing of the $790 and the indication on the Electronic Patent Application Fee Transmittal form, petitioner has complied with the requirements of the rule.

In view of the above, the holding of abandonment is hereby **withdrawn** and the Notice of Abandonment mailed on October 2, 2006 is **vacated**.

In the future, petitioner should submit the form for filing a request for continued examination to avoid the situation which occurred in this case.

As authorized, the previously refunded $790 filing fee for the request for continued examination will be charged back to petitioner's deposit account.

A petition treated as one under 37 CFR 1.181 requesting withdrawal of the holding of abandonment does not require the submission of a fee therefor. Accordingly, the $1,500 fee submitted is unnecessary and will be refunded to petitioner's deposit account.

This application is being referred to Technology Center AU 2618 for processing the papers filed on September 12, 2006 as a request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Mailed: AUG 16 2004

wak
Paper No. [redacted]11

In re application of
Chia-Tin Chung et al.
Serial No. 09/730,904
Filed: December 5, 2000
For: METHOD FOR MANUFACTURING AN ORGANIC ELECTROLUMINESCENT DISPLAY

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed April 9, 2003, for failure to timely reply to the Office action dated September 18, 2002.

DECISION

Since petitioner asserts that the Office action was never received, the request qualifies as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit.

The requirements for granting a withdrawal of holding of abandonment are set forth as follows:

> 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

Additionally, the MPEP sets forth:

> 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Regarding late submissions under this section the MPEP states:

> Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may treat an untimely petition to withdraw the holding of abandonment on its merits on the condition that, in any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period between the mail date of the notice of abandonment and the filing date of such petition to withdraw the holding of abandonment. See 37 CFR 1.183 (the Office may suspend or waive the requirements of 37 CFR 1.181(f), subject to such other requirements as may be imposed). The Office may treat an untimely petition to withdraw the holding of abandonment on its merits in a utility or plant application filed on or after June 8, 1995, on the condition that the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 U.S.C. 120, 121, or 365(c). In either case, the terminal disclaimer must also apply to any patent granted on any application that claims the benefit of the filing date of the application under 35 U.S.C. 120, 121, or 365(c).

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 letter, mailed April 9, 2003. Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter originally mailed April 9, 2003 and restarting of the period of response from the remail date thereof.

The term of a patent issuing from a utility or plant application filed on or after June 8, 1995 ends on the date that is twenty years from the filing date of the application, or the earliest filing date for which a benefit is claimed under 35 U.S.C.§ 120,,121,or 365(c). Utility and plant applications filed on or after May 29,2000,however,are eligible for patent term adjustment under the American Inventors Protection Act of 1999 (AIPA). Therefore, if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, any patent term adjustment will be reduced under the provisions of 37 CFR 1.704(c)(4). If applicant does not receive the notice of abandonment, any patent term adjustment may be reduced under the provisions of 37 CFR 1.704(a)by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution "(processing or examination)of the application, in which case any period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date that is twelve months from the date of applicant 's filing or submission of correspondence with the USPTO for which further action by the USPTO can reasonably be expected and ending on the filing date of a grantable petition to withdraw the holding of abandonment.

A terminal disclaimer accompanies the petition of September 12, 2003, however because of patent term adjustment it will not be necessary to consider the terminal disclaimer.

Therefore, the Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Brian C. McCormack
Baker & McKenzie
2300 Trammell Crow Center
20001 Ross Avenue
Dallas, TX 75201

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OFFICE OF PETITIONS

BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

In re Patent No. 6,977,136 :
Issue Date: December 20, 2005 :
Application No. 09/730,904 : DECISION ON PETITION
Filed: December 5, 2000 :
Attorney Docket No. 141181-200200 :

This is a decision on the "PETITION TO CORRECT PATENT UNDER 37 CFR 3.81b AND 37 CFR 1.182", filed August 18, 2006.

The petition under 37 CFR 3.81(b) is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 1.183 is granted. Such petition under 37 CFR 1.183 should include:

[1] See 37 CFR 3.81.

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703)308-9250, extension 139.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

The matter is also being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD (FAX 571-273-9756)

[2] MPEP 307.

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Paper No. 18

GREGORY L. HILLYER
WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Amos B. Smith, et al. :
Application No. 09/730,929 : DECISION ON PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UPN-3827

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 22, 2004, 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 **GRANTED**.

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, 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 pending application was filed on December 6, 2000, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been

included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (703) 305-9220[1].

This application is being forwarded to Technology Center Art Unit 1625 for appropriate action on the amendment filed January 22, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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

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

Attachment: Corrected Filing Receipt

[1] Effective September 27, 2004, the telephone number will be 571-272-3204

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JUN – 4 2004

#10

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

In re Application of	:	
David Kyle et al	:	
Serial No.: 09/730,934	:	PETITION DECISION
Filed: December 6, 2000	:	
Attorney Docket No.: 332.1116	:	

This is in response to the petition under 37 CFR 1.181, filed August 28, 2003, for withdrawal of abandonment based on non-receipt of an Office action. 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 at the address given in the declaration (DAVIDSON, DAVIDSON & KAPPEL, LLC, 1140 AVENUE OF THE AMERICAS, 15TH FLOOR, NEW YORK NY 10036) on April 12, 2002, setting a one month shortened statutory period for reply. When no reply was received a Notice of Abandonment was mailed to a new address, a change of address having been submitted with an IDS. Applicants state that an original Change of Address was submitted on November 21, 2000, for Customer #23280. The original undated declaration from which all bibliographic information is taken contains no Customer #. Thus the Change of Address for Customer # 23280 submitted prior to the filing of this application had no effect on the correspondence address set forth in the declaration as no Customer # was given. A bar code label is affixed to the last page of the transmittal letter which is not otherwise identified, but corresponds to applicants' Customer # now being used. The Office action also appears to have been returned to the Office as undeliverable. In view of the circumstances the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

As applicant has obtained a copy of the Office action and provided a reply, the application will be forwarded to the examiner for consideration thereof.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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)
6964512	2005-11-15	09730949	2000-12-06	

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

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	/TIMOTHY BOYLES /	Date (YYYY-MM-DD)	2010-02-04
Name	Timothy Boyles for Weekday Organizers Inc		
Enter Reel and Frame Number		Remove	
Reel Number	023525	Frame Number	0792
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6964512
Issue Date: November 15,2005
Application No. 09730949
Filed: December 6,2000
Attorney Docket No. SAB-022

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 10,2010 . 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
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HOLLAND & KNIGHT, LLP
131 S. DEARBORN STREET
30TH FLOOR
CHICAGO, IL 60603

COPY MAILED

MAY 30 2007

OFFICE OF PETITIONS

In re Application of
Geoffrey L. Turner
Application No. 09/730,987
Filed: December 6, 2000
Attorney Docket No. 091451.00500

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed on June 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $500 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Since the address given on the petition differs from the address of record, a courtesy copy of this decision is being mailed to the address noted on the petition; however, the Office will mail all future correspondence solely to the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

This application is being referred to Technology Center Art Unit 2626, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Stefan Stein
Holland & Knight, LLP
P.O. Box 1288
Tampa, FL 33601-1288

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

MAILED

MAY 31 2002

Technology Center 2100

WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, California 95113

In re Application of:
Robert Mende
Application No.: 09/730,98
Filed: December 5, 2000
For: SYSTEM AND METHOD FOR MAINTAINING AND RECOVERING DATA CONSISTENCY IN A DATA BASE PAGE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed January 26, 2002.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on March 26, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed STERNE, KESSLER, GOLDSTEIN & FOX as the attorneys of record of the instant application. The Power Of Attorney of March 26, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by STERNE, KESSLER, GOLDSTEIN & FOX.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W.
Suite 600
Washington, DC 20005-3934

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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Date Mailed : 04/29/08

Patent No. : 6993523 B1
Patent Issued : 01/31/06
Docket No. : **SGI 15-4-879.00**

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 Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 02/04/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Suite 600
Washington DC 20005-3934

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 07, 2008

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/730988 Patent No.: 6993523 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: DENIED—No evidence exists in the record that all the prior art references listed were considered by the examiner during prosecution. The examiner contacted applicant's representative on April 7, 2008 to determine if applicant was relying on some evidence absent from the electronic record (such as a form PTO 892) to establish the consideration of these prior art references. No response received as of April 9, 2008.

Certificate of Correction is DENIED for lack of supporting evidence

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Sam Rimell/

/Charles Rones/ 2164

Deleted:

Deleted:

SPE Art Unit

PAGE 2/2 * RCVD AT 4/9/2008 5:11:13 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/2 * DNIS:2709990 * CSID:7033053718 * DURATION (mm-ss):00-58

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 17, 2008

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/730988 Patent No.: 6993523 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The IDS-892 submitted as evidence on June 17, 2008 show the missing references that should be entered on the patent.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Charles Rones/ _2164_____

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

KEATING & BENNETT,LLP
10400 EATON PLACE
SUITE 312
FAIRFAX VA 22030

COPY MAILED

MAR 19 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fumitoshi Sato :
Application No. 09/731,004 :
Filed: December 6, 2000 :
Attorney Docket No. P/1071-1160 :

This is a decision on the petition, filed March 2, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Joseph A. Sawyer, Jr.
Sawyer Law Group LLP
P.O. Box 51418
Palo Alto CA 94303

In re Application of
Wolfson
Application No. 09/731,088
Filed: December 5, 2000
Attorney Docket No. STL9-2000-0066US1/1804P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision mailed August 12, 2005 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the application became abandoned October 13, 2005. See MPEP 1214.06. Notice of Abandonment was mailed October 24, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE (including submission and fee); (2) the required petition fee; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is directed to Technology Center 2100.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION ~~10/~~ 09/731,126

Paper No.: _____

DATE : 1-24-06

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction on Patent No.: 6818392
A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ South Tower
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1648
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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OFFICE OF PETITIONS

CASELLA & HESPOS
274 MADISON AVENUE, SUITE 1703
NEW YORK, NY 10016

In re Application of
Usui
Application No. 09/731,170
Filed: December 6, 2000
Attorney Docket No. USUI-12N

DECISION GRANTING
PETITION

This is a decision on the petition filed on February 5, 2001, in effect requesting that a Notice of Omitted Items in a Nonprovisional Application ("Notice"), mailed on January 24, 2001 for the above-identified application, be withdrawn.

The petition is GRANTED.

The application was filed on December 6, 2000. However, on January 24, 2001, the Initial Patent Examination Division (OIPE) mailed the Notice stating that the application had been accorded a filing date, and advising that Figures 5, 6, 7, 8 described in the specification appeared to have been omitted from the filed application.

In response, the present petition was filed wherein Petitioner contends that the allegedly omitted figures were filed with other application papers on December 6, 2000. In support, the petition is accompanied by a copy of the postcard receipt which acknowledges receipt in the Office on December 6, 2000 of, *inter alia*, 5 sheets of drawings. The application is identified on the postcard receipt as "Atty. Ref.: USUI-12N," which is the attorney docket number for this application. In addition, the petition encloses a copy of the application filed on December 6, 2000, including "copies" of the drawings allegedly filed on that day.

The Office file for this application actually does not include any sheets of drawings for this application.[1] Based on the information contained in Petitioner's postcard receipt, the Office concludes that 5 sheets of drawings containing Figures 1-8 had been received in the Office on December 6, 2000 and were later misplaced. The petition is thus granted. The Notice mailed on January 24, 2001 is hereby withdrawn. The $130 petition fee has been credited to Deposit Account No. 03-1030 as authorized in the present petition.

---

1 The 1/24/01 Notice erroneously stated that only Figures 5-8 were missing.

The application is being returned to the Initial Patent Examination Division for further processing with a filing date of December 6, 2000, using the copies of drawings supplied with the petition.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

for Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OIPE
OCT 15 2001
JC24
PATENT & TRADEMARK OFFICE

Paper No. 5

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AUG 3 1 2001

OFFICE OF PETITIONS

CASELLA & HESPOS
274 MADISON AVENUE, SUITE 1703
NEW YORK, NY 10016

In re Application of
Usui
Application No. 09/731,170
Filed: December 6, 2000
Attorney Docket No. USUI-12N

DECISION GRANTING
PETITION

This is a decision on the petition filed on February 5, 2001, in effect requesting that a Notice of Omitted Items in a Nonprovisional Application ("Notice"), mailed on January 24, 2001 for the above-identified application, be withdrawn.

The petition is GRANTED.

The application was filed on December 6, 2000. However, on January 24, 2001, the Initial Patent Examination Division (OIPE) mailed the Notice stating that the application had been accorded a filing date, and advising that Figures 5, 6, 7, 8 described in the specification appeared to have been omitted from the filed application.

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---

1 The 1/24/01 Notice erroneously stated that only Figures 5-8 were missing.

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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

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MAIL Paper No. 7

JUL 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

In re Application of	:	
Lee et al.	:	
Application No. 09/731,240	:	DECISION ON REQUEST TO
Filed: December 5, 2000	:	WITHDRAW AS ATTORNEY
For: SYSTEMS AND METHODS FOR ON-LOCATION, WIRELESS ACCESS OF WEB CONTENT	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 23, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Philip Yau is granted the request for withdrawal. Customer Number 27,869 was superceded by Customer Number 24,251 in the Change of Address filed July 18, 2002. Thus, Customer Number 27,869 is not associated with the application, so that the request to remove attorneys/agents associated with this number is moot. All other attorneys remain of 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.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: LUNG YEH, Ph.D.
PICO COMMUNICATIONS
20085 STEVENS CREEK BOULEVARD, SUITE 100
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Edwards Angell Palmer & Dodge LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

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MAR 2 5 2009

OFFICE OF PETITIONS

In re Patent No. 6,866,843 B2 :
Issue Date: March 15, 2005 :
Application No. 09/731,255 : DECISION ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. 14875-115US1/C1-108PCT-US :

This is a decision on the Request for Certificate of Correction Under 37 CFR §1.323, filed April 14, 2005, 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/SB44) accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

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 "Viacell, Inc., Charlestown, MA (US)" to:

> --The General Hospital Corporation, Boston, MA (US)--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied deposit account authorization to charge required fees. As such, the requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been charged as authorized in the petition. A review of the PART B –FEES TRANSMITTAL, submitted with the Issue Fee on April 1, 2008, reveals that Viacell, Inc. was erroneously identified as the assignee in Item 3 of the Transmittal. Office assignment records, however, are consistent with

the requested correction. Accordingly, as the petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Certificate of Correction form filed with the present petition.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 6,866,843 B2.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Paper No. 25

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Habener et al :
Application No. 09/731,261 : ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. 3284/1230 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed February 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional applications 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.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on December 6, 2000, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made, as correctly pointed out by petitioners, in the transmittal letter filed with the above-identified application, and such claim was recognized by the USPTO as reflected by the filing receipt, as petitioners indicate.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37

CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim priority under §§ 37 CFR 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-1820. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of Technology Center AU 1632 will take appropriate action on the amendment filed February 9, 2004, as well as that filed April 6, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) of the claim for benefit of the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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OFFICE OF PETITIONS

In re Application of :
Carlos **SCHULER, et al.** :
Application No. 09/731,316 : DECISION ON PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **015225-005210US** :

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed November 8, 2006 and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 9, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a supplemental appeal brief; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Guy V. Tucker appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

This application is being referred to Technology Center Art Unit 3734 for appropriate action by the Examiner in the normal course of business on the reply received.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Garry Anthony Mercaldi	: DECISION ON REQUEST FOR
Patent Number	: 7651956	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/731,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1042** 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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/17/2010

Applicant : Garry Anthony Mercaldi
Patent Number : 7651956
Issue Date : 01/26/2010
Application No: 09/731,319
Filed : 12/06/2000

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1078** 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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c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of
Robert C. Dixon, et al.
Application No. 09/731,329
Filed: December 5, 2000
Attorney Docket No. 259/080

ON PETITION

This is a decision in response to the petition, filed September 7, 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 a failure to reply in a timely manner to a non-final Office action mailed January 24, 2007. This decision precedes the mailing of a Notice of Abandonment. On September 7, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2619 for consideration of the amendment filed September 7, 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

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PATENT DEPARTMENT
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DULUTH GA 30097-1556

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APR 25 2005

OFFICE OF PETITIONS

In re Application
Rosenzweig et al.
Application No. 09/731,331
Filed: December 6, 2000
Atty Docket No. WES-101.1 (6711/81178)

DECISION ON PETITION

In re Application of
Rosenzweig et al.
Application No. 10/470,651
Filed: July 9, 2003
Atty Docket No. CL/V-31791/WEJ1587

This is a decision on petition filed August 23, 2004, requesting that the Continued Prosecution Application (CPA) filed on July 9, 2003, and based on prior application No. 09/731,331 (issued as U.S. Patent No. 6,649,722 on November 18, 2003) be treated as an application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of July 9, 2003. The Office apologizes for the delay in responding to the present petition.

On April 11, 2003, the Office mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability in application No. 09/731,331. On July 9, 2003, applicants submitted a request for a CPA under 37 CFR 1.53(d) based on prior application No. 09/731,331. However, the CPA request was not processed. On July 15, 2003, applicants paid the issue fee in response to the Notice of Allowance and Issue Fee Due. On November 18, 2003, prior application No. 09/731,331 issued as U.S. Patent No. 6,649,722.

The Office has not acknowledged the request to expressly abandoned the prior application because the CPA request was not entered into the prior application. Accordingly, the petition is proper and timely filed. It is noted that applicants filed the CPA request on July 9, 2003, while the prior application was

still pending. With the CPA request, applicants submitted a preliminary amendment and the copies of the specification, claims, abstract, drawings, IDS with references, and the declaration submitted on July 9, 2003.

Applicants request that the application under 37 CFR 1.53(b) be accorded the filing date of July 9, 2003. Upon review, it appears that the Office received the CPA request on July 9, 2003. Therefore, the application under 1.53(b) will be accorded the filing date of July 9, 2003.

Accordingly, the petition is granted.

The Office has assigned the continuation application under 37 CFR 1.53(b), filed on July 9, 2003, application No. 10/470,651. The Office "closed" the preliminary amendment and copies of the specification, claims, abstract, drawings, IDS with references, and the declaration submitted on July 9, 2003, in application No. 09/731,331 and placed those papers in application No. 10/470,651. A copy of the CPA request and the present petition will be retained in application No. 09/731,331 to complete the record therein. All further correspondence concerning the continuation application under 37 CFR 1.53(b) should be directed to application No. 10/470,651, not application No. 09/731,331.

The Office finance records will be corrected to show applicants paid the $750.00 filing fee on July 9, 2003, and the $130.00 petition fee on August 23, 2004, in application No. 10/470,651, not application No. 09/731,331.

Application No. 10/470,651 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with the filing date of July 9, 2003, using the copies of the specification, claims, drawings and declaration filed on that date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 12

MATTHEW J. SAMPSON AND ANTHOULA POMRENING
McDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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DEC 2 3 2002

OFFICE OF PETITIONS

In re Application of
Dale Thayer
Application No. 09/731,335
Filed: December 6, 2000
Attorney Docket No. MBHB00-150

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(f) AND
:NOTICE RESETTING PERIOD FOR
:REPLY TO NONFINAL OFFICE
:ACTION

This is a decision on the petition filed December 2, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on December 5, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

There is no indication that a reply to the nonfinal Office action of October 29, 2002 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the nonfinal Office action of October 29, 2002 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2882 to await a reply to the October 29, 2002 nonfinal Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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
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Paper No. 15

JUL 12 2002

In re Application of	:	
W. LaFontaine, Jr. et al	:	NOTICE OF WITHDRAWAL
Application No. 09731341	:	FROM ISSUE
Filed: December 6, 2000	:	UNDER 37 CFR 1.313
Attorney Docket No. END919910115US5	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, the 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 and Publication Fee Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Rolf Hille, Director
Technology Center 2800

CC: Office of Publications:

Patent Clerk, PK3-910
Supervisory Correspondence Clerk, PK3-910

DRIGGS, LUCAS, BRUBAKER & HOGG CO., L.P.A.
Old Village Hall
8522 East Avenue
Mentor, Ohio 44060

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FISH & RICHARDSON PC
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MINNEAPOLIS, MN 55440-1022

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MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
Klaus Hohn et al :
Application No. 09/731,406 : DECISION GRANTING PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12406-005002/ :
1997P2507 US 04

This is a decision on the petition, filed March 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1755 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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Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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OCT 20 2006

OFFICE OF PETITIONS

In re Application of :
Klaus Hohn et al. :
Application No. 09/731,406 : DECISION GRANTING PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12406-005002 :

This is a decision on the petition, filed October 16, 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 Request for Continued Examination (RCE) and submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 25, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

MAIL

JUN 2 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McClean, Virginia 22102

In re Application of:
Olaf Manczak
Application No.: 09/731,418
Filed: December 5, 2000
For: SYMMETRIC SHARED FILE STORAGE SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed June 5, 2002.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1..36 was filed on June 7, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed GRAY, CARY, WARE & FREIDENRICH LLP as the attorneys of record of the instant application. The Power Of Attorney of June 7, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by GRAY, CARY, WARE & FREINDENRICH LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: PATENT DEPARTMENT
ATTN: Barry Young
GRAY CARY WARE & FREIDENRICH LLP
1755 Embarcadero Road
Palo Alto, California 94303

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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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATION
TWO INDEPENDENCE WAY, P.O. BOX 5312
PRINCETON, NJ 08543-5312

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Jacques Chauvin, et al. :
Application No. 09/731,492 : ON PETITION
Filed: December 7, 2000 :
Attorney Docket No. RCA 88,847 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 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 24, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 2600, Art Unit 2614 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Mark G. Kachigian
Head, Johnson & Kachigian
228 West 17th Place
Tulsa, OK 74119

Mail Date: 04/21/2010

Applicant	: Giuseppe Mastrangelo	: DECISION ON REQUEST FOR
Patent Number	: 7613252	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/731,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **923** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,506	12/07/2000	Albert Erdrich	HERAEUS 379-KGB	1253

27384 7590 11/05/2004

NORRIS, MCLAUGHLIN & MARCUS, PA
875 THIRD STREET
18TH FLOOR
NEW YORK, NY 10022

EXAMINER	
CAIN, EDWARD J	

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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11/5/04

In re Application of	:	
Albert Erdrich	:	NOTICE OF WITHDRAWAL
Serial No. 09/731,506	:	FROM ISSUE
Filed: December, 07 2002	:	UNDER 37 CFR 1.313(b)
For: DENTAL ISOLATION MATERIAL, AN APPLICATION, A DENTAL KIT, TWO ADDITIONAL METHODS FOR MAKING A PROSTHESIS, A USE FOR THE ISOLATION MATERIAL, A PROSTHESIS, AN ADDITIONAL METHOD FOR MAKING A PROSTHESIS, AND ADDITIONAL APPLICATIONS OF THE ISOLATION MATERIAL	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Vasu Jagannathan (571) 272-1119.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NORRIS, MCLAUGHLIN & MARCUS, PA
875 THIRD STREET
18TH FLOOR
NEW YORK NY 10022

cc: Allowed Files

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Daniel J. Miller, et al. :
Application No. 09/731,529 :
Filed: December 6, 2000 :
Attorney Docket No. MS1-633US :

This is a decision on the petition, filed December 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2154 for further processing of the request for continued examination under 37 CFR 1.114 filed December 16, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

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OFFICE OF PETITIONS

In re Application of	:	
Sheu Ren Yi et al	:	
Application No. 09/731,564	:	ON PETITION
Filed: December 6, 2000	:	
Attorney Docket No. 004728.P037	:	

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 March 11, 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 June 12, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 3622.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Law Offices of Clement Cheng
17220 Newhope Street, #127
Fountain Valley CA 92708

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OFFICE OF PETITIONS

In re Application of :
Sheu Ren Yi et. al. :
Application No. 09/731,564 : DECISION ON PETITION
Filed: December 6, 2000 : TO WITHDRAW
Attorney Docket No. 004728.P037 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 21, 2005.

The request is **NOT APPROVED as moot**.

A review of the file record does not show any power of attorney assignment to Clement Cheng. A power of attorney must be signed by the applicant or assignee, see 37 CFR 1.32(b). Since Clement Cheng is not an attorney of record in this case, the withdrawal is moot, and he cannot request a change of address. See 37 CFR 1.33(a)(2). All future communications will be directed to the correspondence address of record (above) until otherwise notified by the applicant/assignee. Currently, there is no attorney of record in this application.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pother
Petitions Examiner
Office of Petitions

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Yi et al.	:	
Application No. 09/731,564	:	ON PETITION
Filed: December 6, 2000	:	
Attorney Docket No. HK9694US	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 20, 2008, to correct the spelling of the name of inventor "Shen Ren Yi" to – Ren Chen Shu –.

The petition is **DISMISSED**.

The petition under 37 CFR 1.182 to change an inventor's name must include (1) an appropriate petition fee, (2) a statement signed by the inventor setting forth both names and (3) the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner has failed to comply with (1) and (2). The requisite $400.00 petition fee and the statement signed by the inventor must both be submitted before the petition to correct the inventor's name can be granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HIGHLAND PLACE SUITE 310
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HIGHLAND HEIGHTS OH 44143

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OFFICE OF PETITIONS

In re Application of	:	
Shu et al.	:	
Application No. 09/731,564	:	ON PETITION
Filed: December 6, 2000	:	
Attorney Docket No. HK9694US	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed, November 3, 2008, to correct the spelling of the name of inventor "Shen Ren Yi" to – Ren Chen Shu –.

The petition is **GRANTED**.

Office records have been corrected to reflect the correctly translated name of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been charged to petitioner's credit card.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

The matter is being referred to Technology Center AU 3688 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/731,564	12/06/2000	3688	444	HK9694US	21	5

CONFIRMATION NO. 9509

CORRECTED FILING RECEIPT

22203
KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Date Mailed: 03/04/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ren Chen Shu, Hsinchu, TAIWAN;
Jun Ching Wang, Tainan, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 22203

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/18/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/731,564**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System for automatically matching advertiser and target via network and the method of the same

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 5

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston, VA 20191-5302

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OFFICE OF PETITIONS

In re Application of
Huff et al.
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket No.2585-006

DECISION ON PETITIONS
37 CFR 1.137(b) AND 1.47(a)

This is a decision on the petitions filed under 37 CFR §1.137(b) and §1.47(a) both filed June 10, 2002. The petition to revive under 37 CFR §1.137(b) will be addressed first.

The petition to revive under 37 CFR 1.137 (b) is **dismissed**.
The petition under 37 CFR 1.47(a) is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on January 22, 2001. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 23, 2001. This decision precedes the mailing of a Notice of Abandonment.

This petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1). The required reply is a grantable rule 47 petition which petitioner has failed to provide.

37 CFR 1.47(a)

The petition to accord rule 47 status is **DISMISSED**.

The above-identified application was filed on December 7, 2000, without an executed oath or declaration. Accordingly, on January 22, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1). Pursuant to petitioner's request deposit account 18-1579 has been charged the $130.00 petition fee pursuant to 37 CFR 1.17(h) and the $130.00 surcharge for late filing of the declaration pursuant to 37 CFR 1.16(e).

As to item (1), Rule 47 applicant has failed to show that co-inventor Michael Gazillo was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Rule 47 applicant only indicates Gazillo was contacted and has refused to sign numerous mailings. Rule 47 applicant needs to establish what the "multiple mailings" consisted of. Did the mailings consist of the entire application? Rule 47 applicant must also provide more specific facts. If the entire application was submitted for Gazillo's execution, rule 47 applicant should provide the date and the method of delivery to inventor Gazillo. However, if the application papers (specification, including claims, drawings, and oath or declaration) have not been presented to inventor Gazillo, rule 47 applicant must do so before rule 47 status will be granted.

As to inventors Jack Cashman and Howard Pfeffer rule 47 applicant has failed to provide sufficient evidence to establish "diligent effort" was made to locate inventors Cashman and Pfeffer. Petitioner merely states the inventors were not located after "multiple delinquent (sic) efforts".

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

Rule 47 applicant indicates one of the inventors is now employed by a competing company. The inventors employment with a competitor does not waive the requirements

of rule 47. See MPEP 409.03(b).

Upon renewed petition, rule 47 applicant must demonstrate application papers were sent to inventor Gazillo and what efforts which rise to "diligent effort" were used to locate inventors Cashman and Pfeffer.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston, VA 20191-5302

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Barbara Huff, Howard Pfeffer, Michael Gazillo and Jack Cashman
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket Number:2585-006
Title of Invention: SYSTEM AND METHOD FOR PASSWORD AUTHENTICATION FOR NON-LDAP REGIONS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 18, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Howard Pfeffer can not be reached or located and diligent effort has been used to locate the inventor. As to inventors Gazillo and Cashman, the declaration of facts attest a copy of the application was sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application sufficiently establishes that both inventors refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 18-1579 has been credited with $130.00.00 petition fee. A new petition fee is not required.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
PetitionsAttorney
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 9

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston, VA 20191-5302

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Barbara Huff, Howard Pfeffer, Michael Gazillo and Jack Cashman
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket Number: 2585-006

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b) filed December 18, 2002 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on January 22, 2001. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 23, 2001. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Michael Gazillo
7 Seir Hill Road, Unit 38
Norwalk, CT 06850

In re Application of
Barbara Huff, Howard Pfeffer, Michael Gazillo
and Jack Cashman
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket Number: 2585-006
Title of Invention: SYSTEM AND METHOD FOR PASSWORD AUTHENTICATION FOR NON-LDAP REGIONS

LETTER

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MAR 1 1 2003

OFFICE OF PETITIONS

Dear Mr. Gazillo:

You Michael Gazillo are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Jon L. Roberts
Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston VA 20191-5302

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Howard Pfeffer
7 Greenwood Street
Lexington, MA 02421

In re Application of
Barbara Huff, Howard Pfeffer, Michael Gazillo
and Jack Cashman
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket Number: 2585-006
Title of Invention: SYSTEM AND METHOD FOR PASSWORD AUTHENTICATION FOR NON-LDAP REGIONS

LETTER

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

Dear Mr. Pfeffer:

You Howard Pfeffer are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Jon L. Roberts
Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston VA 20191-5302

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jack Cashman
21344 Hidden Pond Place
Ashburn, VA 20148

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Barbara Huff, Howard Pfeffer, Michael Gazillo
and Jack Cashman
Application No. 09/731,571
Filed: December 7, 2000
Attorney Docket Number: 2585-006
Title of Invention: SYSTEM AND METHOD
FOR PASSWORD AUTHENTICATION FOR
NON-LDAP REGIONS

LETTER

Dear Mr. Cashman:

You Jack Cashman are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Jon L. Roberts
Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Drive
Reston VA 20191-5302

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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NOV 26 2003

OFFICE OF PETITIONS

In re Application of :
Riley et al. :
Application No. 09/731,579 : DECISION GRANTING PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2000.045200 :

This is a decision on the petition, filed November 5, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on November 6, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The present application published on July 18, 2002.

This application is being forwarded to Technology Center Art Unit 2123 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED
OCT 26 2006
OFFICE OF PETITIONS

In re Application of	:	
MAYMUDES, et al.	:	
Application No. 09/731,581	:	DECISION GRANTING PETITION
Filed: December 06, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-637US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 24, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 05, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2179 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

LSI LOGIC CORPORATION
1621 BARBER LANE
MS D-106, LEGAL DEPARTMENT
MILPITAS, CA 95035

COPY MAILED

APR 10 2003

OFFICE OF PETITIONS

In re Application of :
Margaret S. Fyfield :
Application No. 09/731,596 : ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. 00-103 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed February 22, 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 23, 2001.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Pursuant to petitioner's authorization, Deposit Account No. 12-2252 was charged $1,300.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOHN R. LEY
5299 DTC BOULEVARD
SUITE 610
GREENWOOD VILLAGE, CO 80111-3327

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/731598 Patent No.: 6,750,350 B2

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: _____

_____

_____

_____

_____

Thomas McKenzie — SPE

1625 — Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,750,340

APPLICATION NO.: 09/731,598

ISSUE DATE : June 15, 2004

INVENTOR(S) : Padioukova, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page,
Item [75], Inventors: "**Nelly Padioukova** (Moscow, RU), **Sergey Mikhailov** (Moscow, RU), **H. B. F. Dixon** (Cambridge, GB), **Grigorii Tzeitline** (Moscow, RU)"
should read --Marat Karpeisky, deceased, (late of Boulder, CO), **Nelly Padioukova** (Moscow, RU), **Sergey Mikhailov** (Moscow, RU), **H. B. F. Dixon** (Cambridge, GB), **Grigorii Tzeitline** (Moscow, RU) --

At Claim 1, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 1, line 6, please delete "CH^3" and replace with --CH_3--

At Claim 4, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 4, line 6, please delete "CH^3" and replace with --CH_3--

At Claim 7, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 7, line 6, please delete "CH^3" and replace with --CH_3--

At Claim 10, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 10, line 6, please delete "CH^3" and replace with --CH_3--

At Claim 13, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 13, line 6, please delete "CH^3" and replace with --CH_3--

At Claim 16, lines 1-2, please delete "prevention or treatment of cancer and disorders of bone formation and resorption" and replace with --treatment of bone cancer.
At Claim 16, line 6, please delete "CH^3" and replace with --CH_3--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Sheridan Ross, P.C.
1560 Broadway, Suite 1200
Denver, CO 80202

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston IL 60201

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
French, et al. : DECISION ON PETITION
Application No. 09/731,624 :
Filed: December 7, 2000 :
Atty. Dkt. No.: AUS920000801US1 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 24, 2007.

This application was held abandoned December 10, 2005 for failure to timely submit a proper reply to the non-final Office action mailed September 9, 2005. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed December 29, 2006.

Petitioners argue that the response to the non-final Office action submitted September 26, 2005 with a duplicate submission on November 17, 2005. The reply consists of a supplemental appeal brief.

Petitioners' arguments have been considered and found convincing.

The non-final Office action mailed September 9, 2005 indicated that "[t]o avoid abandonment of the application, appellant must exercise one of the following two options: (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or, (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but nc new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2)."

It is noted that 37 CFR 1.193 was removed and reserved effective September 13, 2004.

Further, to avoid abandonment after a reopening of prosecution, appellant must exercise one of the following options: (A) file a reply under 37 CFR 1.111, if the Office action is non-final; (B) file a reply under 37 CFR 1.113, if the Office action is final; or (C) initiate a new appeal by filing a new notice of appeal under 37 CFR 41.31. *See*, MPEP 1207.04 and 37 CFR 41.39(b)

In view of the fact that appellants did reply in a manner set forth in the non-final Office action, i.e., submission of a supplemental appeal brief, 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**.

This application is being returned to Group Art Unit 2144 for further processing, and, if deemed necessary, mailing of a new Office communication.

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Steven M. French	: DECISION ON REQUEST FOR
Patent Number	: 7631054	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/731,624	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2355** 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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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OCT 2 9 2008

OFFICE OF PETITIONS

In re Patent No. 7,024,200	:	
Issue Date: April 4, 2006	:	
Application No. 09/731,674	:	NOTICE
Filed: December 6, 2000	:	
Patentee(s): Daniel V. McKenna, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 31, 2008.

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 submitted at the large entity rate.

Finance records show that the Office mistakenly charged petitioner's deposit account twice in the amount of $740 for the fee deficiency. Therefore, one of the $740 payments will be treated as a duplicate and credited back to petitioner's deposit account.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P. O. BOX 747
FALLS CHURCH, VA 22040-0747

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Shuichi Kagawa, et al. :
Application No. 09/731,739 : ON PETITION
Filed: December 8, 2000 :
Atty Docket No. 1190-0478P :

This is a decision on the petition, filed October 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114 filed October 27, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 7

MAIL

JUL 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

In re Application of :
Gasbarro et al. :
Application No. 09/731,746 :
Filed: December 8, 2000 :
For: HOST-FABRIC ADAPTER HAVING BANDWIDTH-OPTIMIZING, AREA-MINIMAL, VERTICAL SLICED MEMORY ARCHITECTURE AND METHOD OF CONNECTING A HOST SYSTEM TO A CHANNEL-BASED SWITCHED FABRIC IN A DATA NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 23, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the Request are granted the request for withdrawal. All attorneys associated with Customer Number 20,457 are also granted the request for withdrawal. All other attorneys remain of record. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

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: C/O ANNE RICHARDS
SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH PA
1600 TCF TOWER
121 S. 8TH STREET
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Aug-05

NATHAN MAXIMUS
MAXIMUS ASSET MANAGEMENT
P.O. BOX 1000
LONDON ENGLAND SW12 9WB
UNITED KINGDOM

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Bykowsky et al.	:	
Application No. 09/731,785	:	DECISION ON PETITION
Filed: 8 December, 2000	:	
Atty Docket No. 741274-7	:	

This is a decision on the petition filed on 21 January, 2005, which is treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.33(b) in that all papers must be signed by a registered patent attorney or by representatives of all assignees and applicants.

This is also a decision on the petition to withdraw as attorney or agent filed on 18 October, 2004.

The petition under 37 CFR 1.183 is **dismissed**.

The petition to withdraw as attorney or agent is **granted**.

At the outset, it is noted that the petition paper filed on 21 January, 2005, is not properly signed as it has been signed only by joint inventor Bykowsky, and has not been signed in compliance with 37 CFR 1.33(b). Nevertheless, in light of the circumstances of this case, it is appropriate to address the merits of this petition.

Petitioner, inventor Mark M. Bykowsky, requests that 37 CFR 1.33(b) be waived to permit papers to be filed by less than all of the inventors because the other inventors assigned their interests to Sholtz & Associates, LLC, by change of name and merger EonXchange, LLC, which filed for bankruptcy. Petitioner further asserts that assets of assignee EonXchange, LLC, including the interest in the instant application for patent, have since been sold at auction to Nathan Maximus (hereinafter

"Maximus"), and that Maximus cannot be found or located. Lastly, petitioner avers that inventor Sholtz has been arrested and indicted for wire fraud and is not available to sign papers.

37 CFR 1.183 permits, 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.

Petitioner has not shown the existence of extraordinary circumstances requiring suspension of the rules. In this regard, the record shows that petitioner alone cannot represent the interests of all of the named inventors and those deriving title therefrom because the owners of an undivided part interest have not chosen thus far to continue prosecution.[1] Having less than the entire interest, petitioner alone may not control prosecution of the case, and therefore may not be considered as sole representative of the ownership interests of the case.[2] Likewise, the fact that an inventor may be incarcerated does not in and of itself mean that he or she, or his or her representative, is unable to sign papers concerning the application.

It is suggested, therefore, that petitioner contact a registered patent attorney regarding further prosecution of this application. Any papers filed in this application must be signed by a registered patent attorney or by representatives of all ownership interests in this case.

A copy of this decision will be forwarded to the address on the petition. However, all future correspondence will be sent solely to the address of record. As petitioner herein is not a proper party, no further communications will be held therewith.

This is a decision on the Request to Withdraw as Attorney or Agent of record filed 18 October, 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

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[1] See In re Goldstein, 16 USPQ2d 1963 (Comm'r Pats. 1988)

[2] See Id. at 1964.

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**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Mark Bykowsky
4513 Chase Ave
Bethesda MD 20814

Encl: Notice Regarding Change of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

OBLON SPIVAK McCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Hideyo Okushi et al
Application No. 09/731,789
Filed: December 8, 2000
Attorney Docket No. 200547US-2

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed September 5, 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 August 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2814 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

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JUL 18 2002

Technology Center 2100

Nixon Peabody LLP
8180 Greensboro Drive
Suite 800
McLean, VA 22102

In re Application of:
Roustem Zainoulline
Application No.: 09/731,814
Filed: December 8, 2000
For: INTERACTIVE GRAPHICAL USER INTERFACE AND METHOD FOR PREVIEWING MEDIA PRODUCTS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed July 18, 2001 and June 18, 2002.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on June 20, 2001 The Power Of Attorney revoked all prior Powers Of Attorney. The Power Of Attorney of June 20, 2001 was accepted.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Roustem Zainoulline
944 Rosette Ct
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Arlington, VA 22313-1450
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Paper No. 16

Stattler Johansen & Adeli
PO Box 51860
Palo Alto, CA 94303-0728

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Steven Teig et al.
Application No. 09/731,891
Filed: December 6, 2000
Attorney Docket No. SPLX.P0002

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2003, and supplemented on June 23, 2003, to revive the instant non-provisional application.

The petition is Granted.

Petitioner states that the instant nonprovisional application is the subject of a counterpart international application filed on December 5, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded.

The application file is being forwarded to Technology Center AU 2825 for further 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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RADER FISHMAN & GRAUER PLLC
1233 20TH ST NW
SUITE 501
WASHINGTON DC 20036

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Kishima, et al.	:	
Application No. 09/731,904	:	ON PETITION
Filed: December 8, 2000	:	
Attorney Docket No. SON-2029	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005.

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 September 22, 2004. This Office action set a shortened period for reply of two months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 23, 2004. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner has paid the petition fee, submitted the required reply in the form of a "RESPONSE TO ACTION UNDER *EX PARTE QUAYLE*", and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 1774 for consideration of the "RESPONSE TO ACTION UNDER *EX PARTE QUAYLE*" filed June 13, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/17/09 Paper No.: —

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/731915 Patent No.: 6838192 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The amendment is entered as correcting typographical errors

The certificate of correction is approved.

/D. Lawrence Tarazano/ 1794
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

Mailed: JUN 23 2003

td
Paper Number 13

In re application of
Susumu Takagi et al.
Serial No. 09/731,935
Filed: December 7, 2000
For: METAL COATED FIBER MATERIALS

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed April 22, 2003.

On August 28, 2002, a non-final office action was mailed to applicant rejecting claims 1-18 under 35 USC 103. Claim 19 was not addressed in the office action except on the Office Action Summary Sheet which included claim 19 under the Disposition of Claims section. A reply to the office action was filed by Applicant on December 2, 2002. In the reply, Applicant put claim 19 into independent form (newly presented claim 20) including all of the limitations present in any intervening claims. On February 25, 2003, a final office action was mailed containing a 35 USC 103 rejection based on the same prior art as that which was made in the first office action. In the final office action, the rejection of claim 20 was added to the original rejection of claims 1-18. Applicants filed a request for withdrawal of finality on April 8, 2003 based on a premature final rejection. The examiner denied the request in an advisory action mailed April 22, 2003.

On May 6, 2003 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the April 22, 2003 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that because claim 19 was not properly rejected in the first office action the subsequent rejection of claim 20 in the final office action was improperly made final. Claim 20 is originally filed claim 19, put in independent form. Applicants are correct that claim 19 was never

properly rejected in the non-final office action. While it appears that the examiner had meant to include claim 19 in the actual rejection, said claim was not addressed. The mere citation of the claim as being rejected on the Office Action Summary sheet is not sufficient to support a proper ground of rejection. Because the subject matter in newly presented claim 20 could have been rejected in the first office action but was not, the newly applied rejection to this claim was not necessitated by Applicant's amendment.

Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response to the April 22, 2003 office action continues to run. Extensions of time may be obtained to file any amendments. Such amendments will be treated as amendments under 37 CFR 1.111.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROCCO S. BARRESE
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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Catherine M. Polizzi
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304-1018

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Allen :
Application No. 09/731,941 : DECISION ON PETITION
Filed: December 6, 2000 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 226272001403 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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, 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1635 for appropriate action on the amendment filed August 17, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Lead 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
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Paper No. 21

INTERNATIONAL BUSINESS
MACHINES CORPORATION
5600 COTTLE ROAD,
DEPT. L2PA/010
INTELLECTUAL PROPERTY
LAW
SAN JOSE, CA 95193-0001

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of

Gillis, et al.

Application No. 09/731,953

Filed: December 6, 2000

Attorney Docket No. SJO-2000-0055US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2004, 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 19, 2003, which set a shortened statutory period for reply of three (3) months. A proper response to the non-final Office action was not received within the allowable period. Accordingly, the application became abandoned on June 20, 2003. A Notice of Abandonment was mailed on November 19, 2003.

The corrected drawing filed January 15, 2004, is noted.

The application is being forwarded to Technology Center 2600 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

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Commissioner for Patents
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Paper No.

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,780,628 Anderson et al. Issue Date: August 24, 2004 Application No. 09/731,971 Filed: December 8, 2000 Attorney Docket No. 016754/0206	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705" filed October 22, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from fifty-eight (58) to one hundred seventy (170) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a Certificate of Correction showing a Patent Term Adjustment of seventy-eight **(78)** days.

On August 24, 2004, the above-identified application matured into U.S. Patent No. 6,780,628. The instant request for reconsideration filed October 22, 2004 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 58 days. Patentees state that the initial determination of patent term adjustment of 170 days should not have been reduced by 112 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the paper was a Comments on Statement of Reasons for Allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record confirms that the reduction of 112 days was based on the filing after allowance of a Comments on Statement of Reasons for Allowance filed May 5, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 112 days.

However, a review of the application history reveals that entry of a period of adjustment of 92 days for Office delay in taking action in response to the filing of the notice of appeal is incorrect. The filing of a notice of appeal is not an action which triggers entry of a period of adjustment for Office delay in responding. Moreover, the Notice of Allowance mailed February 11, 2004 was mailed in response to and within four months of applicants' filing on January 9, 2004 of an argument after notice of appeal.

In view thereof, the patent term adjustment indicated in the patent should be seventy-eight (78) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **SEVENTY-EIGHT (78)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

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

DADE BEHRING INC.
LAW AND PATENTS
1717 DEERFIELD ROAD
DEERFIELD, IL 60015

Mail Date: 04/30/2010

Applicant	: Edwin F. Ullman	: DECISION ON REQUEST FOR
Patent Number	: 7635571	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/732,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1648** 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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Intell/Blakely
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Terrance J. Dishongh et al. :
Application No. 09/732,115 : ON PETITION
Filed: December 7, 2000 :
Attorney Docket No. 42P10041 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 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 final Office action mailed, February 1, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 2007. A Notice of Abandonment was mailed on August 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, with the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2841 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael A. Bernadicou
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1030

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Paper No: __

THOMAS A. BECK
26 ROCKLEDGE LANE
NEW MILFORD CT 06776

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JUN 19 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mok, et al. :
Application No. 09/732,117 :
Filed: 7 December, 2000 :
Attorney Docket No. YOR920000399US1 :

This is a decision on a petition filed on 1 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**.

The Revocation/Power of Attorney submitted is acknowledged and has been entered.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 31 October, 2005, with reply under a non-extendable deadline on or before 31 January, 2006;
- the instant application went abandoned by operation of law after midnight 31 January, 2006;
- the Office mailed a Notice of Abandonment 29 March, 2006;

- Petitioner filed the instant petition on 1 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]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, 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

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QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of :
Jacobs, et al. :
Application No. 09/732,158 : DECISION GRANTING PETITION
Filed: December 7, 2000 :
Attorney Docket No. **PA000396** :

This is a decision on the petition filed July 14, 2003, to have the filing date of the above-cited application corrected to reflect the original filing date granted of December 7, 2000.

On December 7, 2000, the application was deposited.

On January 26, 2001, the Office of Initial Patent Examination mailed a Notice stating that substitute drawings were required and that Figures 18B, 18C, 18D and 18E as described in the specification appeared to have been omitted. The Notice allowed three options for response--one of those being retaining the filing date accorded, filing no petition and accepting the application as filed, and amending the application later.

On March 12, 2001 (certificate of mailing dated March 9, 2001), petitioner filed the "Response to Notice to File Corrected Application Papers and Preliminary Amendment" in which petitioner amended the specification to delete all references to Figures 18B through 18E. Substitute drawings were filed on March 26, 2001, in compliance with the Notice.

It appears that the Office misinterpreted the response of March 12, 2001, as a request to accept the date that the response to the Notice of January 26, 2001, was filed as the filing date of the application. In fact, it is clear that petitioner intended for the application as filed on December 7, 2000, to be considered complete in the absence of Figures 18B through 18E and the response of March 12, 2001, to be an amendment of the specification only with no change to the filing date.

The petition is, therefore, **granted**. The filing date for the application will be changed to December 7, 2000.

The application file is being forwarded to the Office of Initial Patent Examination where the filing date will be changed to December 7, 2000, and a corrected filing receipt issued. The application file will then be forwarded to the Assignment Division for a corrected Notice of Recordation reflecting the filing date for the application as December 7, 2000.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P O BOX 37428
RALEIGH, NC 27627

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OFFICE OF PETITIONS

In re Application of :
David Warburton et al :
Application No. 09/732,163 : DECISION GRANTING PETITION
Filed: December 7, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 9022-21 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 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 March 6, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 7, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (continuation Application No. 10/635,196, filed August 6, 2003), (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 6, 2003 is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/635,196.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62

Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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WOOD, HERRON & EVANS, L.L.P. (IBM)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Miller	:	DECISION ON APPLICATION
Application No. 09/732,189	:	FOR
Filed: December 7, 2000	:	PATENT TERM ADJUSTMENT
Docket No. IBM/151	:	
Title: PEER PROTOCOL STATUS QUERY IN CLUSTERED COMPUTER SYSTEM	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed February 3, 2010. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected from one thousand, eight hundred and ninety-two (1892) days to one thousand, nine hundred and forty-eight (1948) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand, nine hundred and forty-eight (1948)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 22, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 1892 days. On February 3, 2010, Applicants timely[1] filed the present application for patent term adjustment. Applicants argue that an additional 56 days of examination delay should be accorded.

[1] Office records show that the Issue Fee payment was received on February 3, 2010.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.[2]

37 CFR 1.703(a)(5) states that the term of an original patent shall be adjusted by the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application.

The application history has been reviewed and it has been determined that Applicants are correct in stating that an additional period of examination delay should be accorded. A final decision by the Board of Patent Appeals and Interferences was mailed on July 27, 2009, and at least one allowable claim (claims 1-21) remained in the application.[3] The notice of allowance was mailed four months and 56 days after the date of a final decision by the Board of Patent Appeals and Interferences, resulting in 56 days of examination delay.

An adjustment of 56 days has been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is one thousand, nine hundred and forty-eight (1948) days (2144 days of Office delay minus 196 days of Applicant delay).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any 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

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[2] Petition, page 2.

[3] See MPEP § 2731, example C: "[i]f claims 1 and 2 are pending, and the decision affirms the rejection of claim 1 and reverses the rejection of claim 2, "allowable claims remain in the application" for purposes of 35 U.S.C. 154(b)(1)(A)(iii) (claim 2 is "allowable" within the meaning of 37 CFR 1.703(a)(5) because there is no outstanding objection or requirement as to it (see MPEP § 1214.06, paragraph (I)(B))."

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 regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Wednesday

PALM INTRANET

Date: 6/30/2010
Time: 08:22:39

PTA Calculations for Application: 09/732189			
Application Filing Date:	12/07/2000	PTO Delay (PTO):	2088
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	196
Post-Issue Petitions:	0	Total PTA (days):	1948
PTO Delay Adjustment:	56		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	06/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	56		
79	01/22/2010	MAIL NOTICE OF ALLOWANCE			
78	12/23/2009	ISSUE REVISION COMPLETED			
77	12/23/2009	DOCUMENT VERIFICATION			
76	12/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	12/16/2009	NOTICE OF ALLOWABILITY			
74	07/27/2009	MAIL BPAI DECISION ON APPEAL - REVERSED	1321		42
73	07/27/2009	BPAI DECISION - EXAMINER REVERSED			
72	07/27/2009	MAIL - BPAI DECISION 41.50(B) IN IFW: 196(B)			
71	07/27/2009	BPAI DECISION 41.50(B)			
70	10/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
68	08/21/2008	DOCKETING NOTICE MAILED TO APPELLANT			
67	08/16/2008	ASSIGNMENT OF APPEAL NUMBER			
66	07/14/2008	APPEAL AWAITING BPAI DOCKETING			
65	05/14/2008	APPEAL READY FOR BPAI REVIEW			
64	12/29/2007	APPEAL READY FOR BPAI DOCKETING			
63	12/07/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
62	12/05/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
61	06/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	11/01/2007	RETURN OF UNDOCKETED APPEAL TO THE TC			
59	11/01/2007	EXAM. ANS. REVIEW COMPLETE			
58	10/05/2007	MAIL EXAMINER'S ANSWER			

57	09/29/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
55	07/21/2007	APPEAL BRIEF REVIEW COMPLETE			
54	07/21/2007	DATE FORWARDED TO EXAMINER			
53	06/18/2007	APPEAL BRIEF FILED			
52	05/18/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
51	04/03/2007	APPEAL BRIEF REVIEW COMPLETE			
50	04/03/2007	DATE FORWARDED TO EXAMINER			
49.1	02/02/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
49	02/02/2007	APPEAL BRIEF FILED			
48	01/24/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
47	01/17/2007	DATE FORWARDED TO EXAMINER			
46.1	02/15/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
46	02/15/2006	APPEAL BRIEF FILED			
45.7	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		114	46
45	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	01/13/2006	MAIL ADVISORY ACTION (PTOL - 303)			
43	01/09/2006	ADVISORY ACTION (PTOL-303)			
42	12/15/2005	NOTICE OF APPEAL FILED			
41	12/23/2005	DATE FORWARDED TO EXAMINER			
40	12/15/2005	AMENDMENT AFTER FINAL REJECTION			
39	09/20/2005	MAIL FINAL REJECTION (PTOL - 326)			
38	09/19/2005	FINAL REJECTION			
37	07/08/2005	DATE FORWARDED TO EXAMINER			
36	07/01/2005	RESPONSE AFTER NON-FINAL ACTION			
35	05/16/2005	REFERENCE CAPTURE ON IDS			
34.7	05/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	05/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	04/04/2005	MAIL NON-FINAL REJECTION			
32	04/01/2005	NON-FINAL REJECTION			
31.7	03/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		75	29
31	03/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

30	02/01/2005	DATE FORWARDED TO EXAMINER			
29	12/22/2004	APPEAL BRIEF FILED			
28	10/25/2004	REFERENCE CAPTURE ON IDS			
26	12/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	10/22/2004	NOTICE OF APPEAL FILED			
24	07/23/2004	MAIL FINAL REJECTION (PTOL - 326)			
23	07/22/2004	FINAL REJECTION			
22	07/19/2004	CORRESPONDENCE ADDRESS CHANGE			
21	06/22/2004	REFERENCE CAPTURE ON IDS			
20.7	06/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		7	18
20	06/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/09/2004	DATE FORWARDED TO EXAMINER			
18	06/15/2004	RESPONSE AFTER NON-FINAL ACTION			
17	06/15/2004	WORKFLOW INCOMING AMENDMENT IFW			
16.7	04/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/15/2004	MAIL NON-FINAL REJECTION	767		-1
13	03/08/2004	NON-FINAL REJECTION			
12	02/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
11.7	01/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	01/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/02/2003	CASE DOCKETED TO EXAMINER IN GAU			
9.7	11/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
7.7	12/31/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

7	12/31/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6.7	06/04/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	06/04/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	02/13/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	02/02/2001	APPLICATION DISPATCHED FROM OIPE			
3	01/26/2001	CORRESPONDENCE ADDRESS CHANGE			
2	01/08/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/07/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 10

JONES, DAY, REAVIS AND POGUE
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND OH 44114

MAILED

MAR 2 0 2003

Technology Center 2600

In re Application Serial No.:

09/732,190

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Brian T. McGee, C. A.
Zeifman & Company, LLP
Chartered Accountants
201 Bridgeland Avenue
Toronto, M6A 1Y7
CANADA

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.3
MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVEN E. SHAPIRO, ESQ.
MITCHELL, SILBERBERG & KNUPP LLP
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064

In re Application of:)
Ashwin Philips)
Application No.: 09/732,202)
Filed: December 6, 2000)
For: THREE-PANEL DISPLAY FOR SELECTING FILES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed January 22, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

The following attorney(s) are withdrawn from the record: Joseph G. Swan.

The following attorney(s) have not been withdrawn and are still of record:
Steven E. Shapiro and Brent Rabowsky.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Greg Wertheimer
51 Middlesex Street, Suite 125
North Chelmsford, MA 01863

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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JUN 24 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVEN E. SHAPIRO
MITCHELL, SILBERBERG & KNUPP LLP
11377 WEST OLYMPIC BLVD.
LOS ANGELES, CA 90064

In re Application of:
Philips
Application No.:09/732,202
Filed: December, 6, 2000
For: THREE PANEL DISPLAY FOR SELECTING FILES

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record filed on May 7, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. §1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. §402.06. 37 C.F.R. §1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

The withdrawal is effective as to the following attorneys/agents previously of record: STEVEN E. SHAPIRO (Reg. No. 35,676); BRENT RABOWSKY. (Reg. No. 41,262).

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.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: GREG WERTHEIMER
51 MIDDLESEX STREET
SUITE 125
NORTH CHELMSFORD MA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4
MAIL

APR 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Steven E. Shapiro, Esq.
MITCHELL, SILBERBERG & KNUPP, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

In re Application of:
Ashwin Philips
Application No.: 09/732,203
Filed: December 6, 2000
For: NETWORK-ENABLED
AUDIO/VIDEO PLAYER

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed January 22, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

The following attorney(s) are withdrawn from the record: Joseph G. Swan. There is no indication that the signer is signing on behalf of the other attorneys/agents of record. Steven Shapiro and Brent Rabowsky remain of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Greg Wertheimer
51 Middlesex Street, Suite 125
North Chelmsford, MA 01863

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAIL Paper No. 6

JUN 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Steven E. Shapiro, Esq.
MITCHELL, SILBERBERG & KNUPP, LLP
1377 West Olympic Boulevard
Los Angeles, CA 90064

In re Application of:
Ashwin Philips
Application No.: 09/732,203
Filed: December 6, 2000
For: NETWORK-ENABLED AUDIO/VIDEO PLAYER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record filed May 13, 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 meets the above requirements and is **GRANTED**.

All future communications from the Office will continue to be directed to the below-listed address unless a change of correspondence is specifically requested. This address is proveided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc:

Greg Wertheimer
51 Middlesex Street
Suite 125
North Chelmsford MA 01863

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 14, 2005

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6,961,923

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:

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
2193

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 20

ANTONELLLI TERRY STOUT AND KRAUS
1300 NORTH SEVENTHEETH STREET
SUITE 1800
ARLINGTON VA 22209

COPY MAILED

SEP 04 2002

OFFICE OF PETITIONS

In re Application of :
Ikuya Arai et al :
Application No. 09/732,291 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 520.32696CX4 :

This is a decision on the petition, filed August 5, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 24, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2181 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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 10

JOHN S. SOPKO
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of
Nicholas Broeders et al
Application No. 09/732,299
Filed: December 8, 2000
Attorney Docket No. 669-87

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6481257	2002-11-19	09732319	2000-12-07	286859-00002

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	/Guy Chartier/	Date (YYYY-MM-DD)	2007-11-08
Name	Guy N. Chartier		

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. 6481257
Issue Date: November 19,2002
Application No. 09732319
Filed: December 7,2000
Attorney Docket No. 286859-00002

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 8,2007 ,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 8,2007 . 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

FEB - 9 2004

F23

ALSTON AND BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TYRON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re application of Yen Choo et al.
Serial No. : 09/732,348 : DECISION ON PETITION
Filed : December 7, 2000
Attorney Docket No.: 674538-2001

This is in response to applicants' petition, filed January 17, 2003 under 37 CFR 1.144, to withdraw the restriction requirement.

BACKGROUND

Review of the file history shows that the application was filed December 7, 2000 under 35 U.S.C. 111(a). The application as filed contained 9 claims. On January 15, 2002 the examiner mailed a restriction requirement dividing the claims into 3 groups. On February 14, 2002 applicants filed a response in which they elected Group III. Applicants then filed an amendment adding claims 10-23 on May 2, 2002. In view of the newly added claims, the examiner mailed a second restriction requirement on July 16, 2002, which divided the claims into 4 groups with linking claims. On August 16, 2002 applicants elected Group III. Applicants traversed the restriction requirement on essentially the same grounds presented in the instant petition. On October 23, 2002 the examiner mailed a first Office action on the merits, in which the restriction requirement was made final.

DISCUSSION

Applicants argue that a restriction requirement can only be made if the inventions are both independent and distinct. Applicants reason that the MPEP is not the law, and the examiner is bound to follow statute, regulation and case law. This line of argument is not persuasive. While applicants are correct in stating that the MPEP is not the law, the MPEP sets forth guidelines for patent examiners to follow in the course of their work. These guidelines are based on the Office's interpretation of statute, regulation and case law. In this instance, the MPEP states:

> The law has long been established that dependent inventions (frequently termed related inventions)...may be properly divided if they are, in fact,

> "distinct" inventions, even though dependent....The term "distinct" means that two or more subjects as disclosed are related...but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art). MPEP 802.01.

Applicants argue that Groups I and III, drawn to methods and compositions for activating transcription, are not distinct from Groups II and IV, drawn to methods and compositions for repressing transcription, because all relate to regulation of transcription. This argument is not persuasive. The fact that two or more inventions have something in common does not preclude restriction. For example, acetaminophen and ibuprofen are both organic compounds which can be administered to relieve pain, yet they are patentably distinct. Moreover, applicants are reminded that there are linking claims, and Group IV may yet be examined as stated in the restriction requirement. Applicants' argument that the examiner must provide credible utilities for each of the inventions is not supported by statute, regulation or law, and is not comprehended. Are applicants stating that the claimed invention lacks utility and should be rejected under 35 U.S.C. 101? The utility of the claimed invention is readily apparent.

Applicants argue that the methods of Groups I and II could be used together. This argument is not persuasive, because the methods need not be used together. As stated by the examiner, the two methods utilize different starting materials and produce different effects, and are therefore patentably distinct (i.e. neither would render the other obvious). To return to the example above, acetaminophen and ibuprofen *could* be used together, yet they may also be used separately, and so remain patentably distinct.

Applicants argue that the inventions of Groups I-IV have the same mode of operation. This argument is not persuasive. The Aoyama et al. reference cited by the examiner anticipates the claims of Group III, but not those of Groups I, II and IV. It is clear that, absent an express admission by applicants that the inventions are not patentably distinct, further search and consideration would be required to examine all of the claims.

Applicants argue that all polynucleotides are composed of the same 4 nucleotides and that the polynucleotides of the different groups all encode regulatory proteins. This argument is not persuasive. Applicants need only inspect class 536, subclass 23, to find that many hundreds of polynucleotides, many with similar functions, have been found patentably distinct.

DECISION

Applicants' petition is **DENIED**.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Yen Choo	: DECISION ON REQUEST FOR
Patent Number	: 7262055	: RECALCULATION of PATENT
Issue Date	: 08/28/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/732,348	: OF WYETH
Filed	: 12/07/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

COPY MAILED

OCT 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Allan Svendsen et al :
Application No. 09/732,350 : ON PETITION
Filed: December 7, 2000 :
Attorney Docket No. 5200.220-US :

This is a decision on the petition filed, July 13, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 26, 2005, which set a shortened statutory period for reply of three (3) months. Three months extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 27, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 13, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $3180 extension of time submitted on February 20, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 1652 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Allan Svendsen	: DECISION ON REQUEST FOR
Patent Number	: 7622287	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/732,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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)
6324786	2001-12-04	09732375	2000-12-07	8403.309

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	/klhester/	Date (YYYY-MM-DD)	2009-12-09
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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. 6324786
Issue Date: December 4,2001
Application No. 09732375
Filed: December 7,2000
Attorney Docket No. 8403.309

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 December 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES 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: 3/17/06 dss

In re application of
Gerhard Jorgen Darr.
Serial No.09/732,398
Filed: December 07, 2000
For: MARKINGS ON TRANSPARENT PLASTIC

DECISION ON
PETITION

This is a response to the PETITION FOR WITHDRAWAL OF NOTICE OF ABANDONMENT, filed November 04, 2004 and resubmitted February 09, 2005. The request petitions that the abandonment as set forth in the Notice of Abandonment mailed October 04, 2004 for failure to respond to the Final Office Action mailed January 28, 2004 be withdrawn. Applicants assert that the Final Office Action was not received, since it was mailed to the incorrect address.

DECISION

Since petitioner asserts that the Final Office Action of January 28, 2004 was incorrectly mailed by the USPTO, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request can not be granted.

Applicant in the Transmittal Papers filed December 07, 2000 stated that the correspondence address was to be Steve T. Zelson, Esq., Novo Nordisk of North America, Inc., 405 Lexington Avenue, Suite 6400, New York, NY 10174-6401. Applicant then subsequently filed on September 11, 2002 a Request for Customer Number Data Change including a change of correspondence address to Novo Noridsk Pharmaceuticals, Inc. 100 College Road West, Princeton NJ 08540. On September 12, 2002, the Office mailed a Notice of Customer Number Record Change with a correspondence address of Novo Nordisk of North America, Inc., 405 Lexington Avenue, Suite 6400, New York, NY 10017. It is clear that the request for change of correspondence address was never properly changed with the associated customer number. However, a review of the application file contents indicates that applicant never associated the instant application with said customer number, the Change of Correspondence filed with the Power of Attorney of March 22, 2004 was after the mailing date of the Final Office Action of January 28, 2004, the Change in Correspondence Address mailed September 30, 2004 was after the sixth month date for response to the Final Office Action mailed January 28, 2004 and applicant has not complied with the requirements of MPEP 601.03 Change of Correspondence Address by filing a proper Change of Correspondence Address in accordance therewith before the mailing date of the Final Office Action of January 28, 2004. Thus; the Final Office Action was mailed to the correct correspondence address of record Steve T. Zelson, Esq., Novo Nordisk of North America, Inc., 405 Lexington Avenue, Suite 6400, New York, NY 10174-6401. The application is still held abandoned.

The Petition is DISMISSED.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Marc A. Bergen
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540

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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JUL 28 2006

OFFICE OF PETITIONS

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

In re Application of :
Gerhard Jorgen Darr :
Application No. 09/732,398 : ON PETITION
Filed: December 6, 1998 :
Attorney Docket No.: 6151.200-US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 29, 2004 for failure to timely file a reply to the final Office action mailed January 28, 2004, which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed October 4, 2004.

The Notice of Appeal filed March 30, 2006, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

A review of the file reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on March 30, 2006 was subsequent to the maximum period obtainable for reply to the Final Office Action mailed January 28, 2004, this fee is unnecessary and will be credited to counsel's deposit account no. 14-1447.

This matter is being referred to Technology Center 1772 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

In re Application of	:	
Dutta et al.	:	
Application No. 09/732,482	:	DECISION ON PETITION
Filed: December 7, 2000	:	
Attorney Docket No. AUS920000856US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of December 20, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with a fee of $500; (2) the petition fee of $ 1500; and (3)

a proper statement of unintentional delay. Accordingly, the Notice of Appeal filed November 20, 2006, is being accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571- 272 - 4914, or in his absence to the undersigned at 571 - 272 - 7099.

This application is being referred to Technology Center AU 3628 to process the Pre-Appeal Brief Request filed November 20, 2006 and for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
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. 5

Hughes Electronics Corporation
Patent Docket Administration
Bldg 001 M/S A109
P O Box 956
El Segundo, CA 90245-0956

COPY MAILED

MAY 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Derek P. Footer, et al. :
Application No. 09/732,498 : ON PETITION
Filed: December 6, 2000 :
Attorney Docket No. PD-200153A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice To File Missing Parts of Non-Provisional Application mailed January 22, 2001, which set a shortened statutory period for reply of two(2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gregory S. Rosenblatt
WIGGIN AND DANA LLP
ONE-CENTURY TOWER
P.O.BOX 1832
NEW HAVEN, CT 06508

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Watsaka Chuangsuvansh
Application No. 09/732,531
Filed: March 7, 2001
Attorney Docket No. 102565-100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 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 Gregory S, Rosenblatt on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is appending Notice of Appeal filed September 14, 2006 that requires a Reply Brief no later than April 14, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: WATSAKA CAUNGSUVANISH
VIZEDGE
210 SOI THONG-LOR
VIBHAVADI-RUNGSIT STREET
BANGKOK 10900
THIALAND

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	ATTY. DOCKET NO./TITLE
09/732,531	03/07/2001	Watsaka Chuangsuvanish	

CONFIRMATION NO. 3040

OC000000021809453

OC000000021809453

Gregory S. Rosenblatt
WIGGIN and DANA LLP
One Centry Tower
P.O.Box 1832
New Haven,, CT 06508

Date Mailed: 01/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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.
09/732,621	12/08/2000	Wooyoung Kim	10001279-1	9724

7590 03/08/2007

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER	
COLIN, CARL G	
ART UNIT	PAPER NUMBER
2136	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

In re Application of:
Wooyoung Kim et al
Application No. 09/732,621
Filed: December 8, 2000
For: DISCOVERY OF AN ADVERTISING SERVICE IN E-SPEAK

DECISION SUA SPONTE WITHDRAWING OFFICE ACTIONS

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to file a timely response to the decision by the Board of Patent Appeals and Interference rendered on October 31, 2006. A Notice of Abandonment was mailed on January 24, 2007.

A review of the file record indicates that the decision by the Board of Patent Appeals and Interferences sustained the examiner's rejection on independent claims 1, and 8, but did not sustain the rejection of dependent claims 2, 6, 7, 9, 12, and 13.

MPEP 1214.06 states in part :

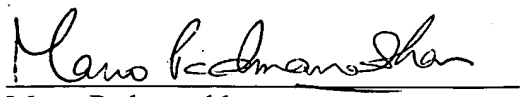
I. NO CLAIMS STAND ALLOWED:

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, ** after expiration of the period for further appeal, >the examiner< should proceed in one of two ways:
(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or
(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

Hence, although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Examiner of Record for further action according to the procedures set forth in M.P.E.P. §1214.06.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.



Mano Padmanabhan
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

SECTORS

Docket No. 10806-151

PATENT

#3

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Box Missing Parts; Assistant Commissioner of Patents, Washington, DC 20231 on Feb. 28, 2001.

Laureen E. Mains

Laureen E. Mains

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	Andreas CASTAN	:	Paper No.: __
Serial No.:	09/732,638	:	Group Art Unit: 1645
Filed:	December 8, 2000	:	Examiner:

For: **Production of Peptides**

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application dated January 25, 2001, submitted herewith is a Declaration and Power of Attorney signed by the inventor.

The $130 for the government surcharge for late filing of the Declaration is submitted herewith by check. Please charge any additional fees required in connection with this or any of the enclosed communications to Deposit Account No. 04-1133.

A copy of the Notice to File Missing Parts of Nonprovisional Application is also enclosed.

Respectfully submitted,

By _____

Holly D. Kozlowski, Reg. No. 30,468
Attorney for Applicants
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8568

653689.01

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/732,638	12/08/2000	Andreas Castan	10806-151

24256
DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

OIPE JC131
MAR 05 2001
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 2602

FORMALITIES LETTER

OC000000005707880

Date Mailed: 01/25/2001

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 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.

- **The balance due by applicant is $ 130.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

03/07/2001 HMOOR1 00000052 09732638
01 FC:105 130.00 OP

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)
6751297	2004-06-15	09732720	2000-12-11	22001-034001

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	/Lawrence A. Aaronson/	Date (YYYY-MM-DD)	2009-01-04
Name	Lawrence A. Aaronson	Registration Number	38369

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. 6751297
Issue Date: June 15,2004
Application No. 09732720
Filed: December 11,2000
Attorney Docket No. Q61541

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 4,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 4,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MAILED

APR 11 2002

Technology Center 2100

Bernard Malina, Esq.
Malina & Wolson
60 East 42nd Street
New York, NY 10165

In re Application of: Jeffrey Alnwick
Application No. 09/732,738
Filed: December 11, 2000
For: METHOD AND SYSTEM FOR ORDERING ITEMS OVER THE INTERNET

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed January 16, 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(h);
>
> (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.***
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In

> those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely reproduces the title provided in each reference and for some references, a brief discussion of a representative figure, accompanied by a statement that the particular reference does not include the features of the claimed invention. Features of independent claims 1 and 14 are discussed. However, in the Preliminary Amendment, dated January 16, 2002, the independent claims are 1 and 15. The submission does not satisfy the requirement of section (e), 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 Electronic Commerce
(703) 306-4160

7030

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☒ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP TO:

STEVEN MEYERS **CPK5-~~7Y01~~ 8706**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JUL 0 8 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Bernard Malina, Esq.
Malina & Wolson
60 East 42nd Street
New York, NY 10165

Paper No. 7

In re application of : **DECISION ON PETITION**
Jeffrey Alnwick : **TO MAKE SPECIAL**
Application No. 09/732,738 : **(ACCELERATED EXAMINATION)**
Filed: December 11, 2000
For: METHOD AND SYSTEM FOR ORDERING ITEMS OVER THE INTERNET

This is in response to the renewed petition filed on April 24, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/snm: 7/6/02

A DOCPHOENIX

☐ request to review the filing date accorded to the application must be in the form of a petition.

A petition under 37 CFR 1.10, 37 CFR 1.53 or 37 CFR 1.182 is needed to request a change to the filing date. A $130 petition fee is required for a petition under 1.53 or 1.182. If you choose to file a petition, the petition and the $130 petition fee, if any, to:

Box DAC
Commissioner for Patents
Washington, DC 20231

Customer Service Center
Initial Patent Examination Division
(703) 308-1202

LAW OFFICES
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NEW JERSEY 07090

COPY OF PAPERS ORIGINALLY FILED

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PB METER 6795215

Commissioner For Patents
Office of Initial Patent Examination
Customer Service Center
Washington, D.C. 20231

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Fletcher et al.	:	
Application No. 09/732,838	:	ON PETITION
Filed: December 8, 2000	:	
Attorney Docket No. P-5093	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 8, 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 publication fee in a timely manner in reply to the Notice of Allowance mailed March 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 29, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The three-month statutory period for reply to the Notice of Allowance cannot be extended. Accordingly, since the $120.00 extension of time fee submitted with the petition on July 8, 2005, is unnecessary, it will be credited to petitioner's deposit account as authorized.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
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. 15

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OCT 0 3 2002

OFFICE OF PETITIONS

BEST AVAILABLE COPY

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

In re Application of :
Leif Wallstrom :
Application No. 09/732,871 : NOTICE
Filed: December 11, 2000 :
Attorney Docket No. P15415US00/AK :

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 3761.

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

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Patent No. 6,900,736 :
Issue Date: May 31, 2005 :
Application No. 09/732,978 : NOTICE
Filed: December 7, 2000 :
Attorney Docket No. 241/283 :

This is a decision on the Change of Status from Small to Large Entity, filed December 4, 2008, which is being treated under 37 CFR 1.28.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

37 CFR 1.33(b) states that all papers must be signed. The Change of Status from Small to Large Entity appears to have a signature, but it is not legible. The fee deficiency will be accepted upon receipt of a properly signed document.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

cc: SMART & BIGGAR
1000 DE LA GAUCHETIERE STREET WEST
SUITE 3300
MONTREAL, QUEBEC H3B 4W5
CANADA

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER: 10001421-1

IN RE APPLICATION OF: U.S. Patent No. 7,028,035

USPTO CONFIRMATION CODE: 2472

APPLICATION NO.: 09/733,012

FILED: Dec. 08, 2000

EXAMINER: Frantz Coby

APPROVED: /C.N./

GROUP ART UNIT: 2161

FOR: METHOD AND SYSTEM OF TYPING RESOURCES IN A DISTRIBUTED SYSTEM

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

Sir:

The following is a request for a certificate of correction in Serial Number 09/733,012, now Patent Number 7,028,035.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

☐ All errors were the fault of the USPTO, no fee required. In the event that a further fee is required, please charge the amount to Deposit Account No. 082025.

☒ All errors were the fault of the applicant and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

☐ The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

In column 22, line 43, in Claim 22, after "data" delete "d" and insert - -are supplied - -, therefor.
(Amendment to claims filed on Feb. 11, 2005, page 10, in Claim 40, line 2)

APPROVED: /C.N./

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

3/3/2010
DATE

/Lloyd E. Dakin, Jr., Reg. # 38,423/
Name: Lloyd E Dakin, Jr.
Registration No.: 38,423

Attorney/Agent of Record

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,028,035

APPLICATION NO. : 09/733,012

ISSUE DATE : Apr. 11, 2006

INVENTOR(S) : Kannan Govindarajan, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 22, line 43, in Claim 22, after "data" delete "d" and insert - - are supplied - -, therefor.

APPROVED: /C.N./

MAILING ADDRESS OF SENDER (Please do not use customer number below):

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

This collection of information is required by 37 CFR 1.322, and 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

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OFFICE OF PETITIONS

In re Patent No. 6,595,368 :
Issued: 07/22/2003 :
Application No. 09/733,111 : NOTICE
Filed: 12/08/2000 :
Attorney Docket No. M419.12-0025 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 28, 2008.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DAVID W. BARMAN
1101 NE 176 TERRANCE
NORTH MIAMI BEACH, FL 33162

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of :
LYNN :
Application No. 09/733,157 : Notice to File Corrected
Filed: December 8, 2000 : Application Papers
For: SYSTEMS AND METHODS FOR : and Decision on Petition
ELECTRONIC INTERACTION

This is in reply to "Petition Under 37 CFR 1.182," which was filed on June 12, 2001, requesting reconsideration of the Notice of Incomplete Reply, mailed June 1, 2001.

The petition is dismissed.

Applicant is given **TWO MONTHS** from the mailing date of this decision to file a complete reply, i.e., to file drawings in compliance with 37 CFR 1.84, an amendment to the specification deleting the computer programs from the specification, adding the reference required by 37 CFR 1.96(c), and making any necessary changes to the Brief Description of the Drawings, and submitting the computer program listing on a compact disk in compliance with 37 CFR 1.52 and 1.96. Any reply should be entitled "Reply to Notice to File Corrected Application Papers." Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 8, 2000, without an executed oath or declaration and with 15 figures on 25 sheets. When the Office publishes a patent application each sheet of drawings is reproduced as a sheet of drawings on the patent application publication. The drawings that were filed were not suitable for publication. Accordingly, on February 15, 2001, the Office mailed a Notice of Missing Parts, requiring an executed declaration and corrected drawings.

On April 9, 2001, applicant filed a reply including an executed declaration and a surcharge for its late filing. The response references substitute drawings, but no drawings were received. Instead, on April 9, 2001, 67 numbered pages containing, as applicant states, nine CGI programs were included.

As a result of applicant's incomplete reply, on June 1, 2001, a Notice of Incomplete Reply was mailed, stating that substitute drawings were still required.

On June 12, 2001, applicant filed the instant petition. Applicant argues that the drawing requirement was in error and stating that the substitute drawings are a "computer program which have the requisite margin." Applicant also argues that if the margins on the computer program are incorrect that the requirement be waived the application is allowed.

Office procedures no longer permit drawing requirements to be held in abeyance. 35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. As a result, the application must be suitable for publication before it will be examined.

37 CFR 1.85(a) states:

> A utility or plant application will not be placed on the files for examination until objections to the drawings have been corrected. Except as provided in § 1.215(c), any patent application publication will not include drawings filed after the application has been placed on the files for examination. Unless applicant is otherwise notified in an Office action, objections to the drawings in a utility or plant application will not be held in abeyance, and a request to hold objections to the drawings in abeyance will not be considered a bona fide attempt to advance the application to final action (§ 1.135(c)). If a drawing in a design application meets the requirements of § 1.84(e), (f), and (g) and is suitable for reproduction, but is not otherwise in compliance with § 1.84, the drawing may be admitted for examination.

Applicant's drawings are unacceptable for publication. As to the originally filed drawings, Fig. 1 does not have an acceptable top margin because the text "Exclusive Florida...com" is within the top margin. All of the other sheets of drawings also have text within the top margin. Fig. 3 (continued) has excessive white space. When the patent application publication is printed, it will either look poorly prepared or to be missing the figure. When a figure is split between two sheets, the views must be capable of being linked edge to edge so that no partial view includes parts of another view (37 CFR 1.84(h)(2)) and each view must be labeled with the same number followed by a capital letter. Figure 3 must be re-labeled Fig. 3A, and Fig. 3 (continued) must be re-labeled Fig. 3B, if the entire figure cannot be fit onto a single page so that the entire view is within the required margins. Note the attached Example 17, from the Guide for the Preparation of Patent Drawings. Figure 4 and Fig. 4 (continued), Fig. 7 and Fig. 7 (continued), Fig. 8 and Fig. 8 (continued), Fig. 9 and Fig. 9 (continued), Fig. 13 and Fig. 13 (continued), and Fig 14, Fig. 14 (continued), Fig. 14 (continued) and Fig. 14 (continued) are similarly unacceptable. The final Fig. 14 (continued) is almost entirely white space, with the text in the margins and the usable surface of the page blank.

As to the "drawings" filed April 9, 2001, of the 67 numbered sheets, not a single figure has been identified. The application papers filed on December 8, 2001 contains a brief description of 15 figures. The drawings in the patent application must correspond to the brief description, so if a change is made in the drawings, a corresponding change must be made to the brief description.

Applicant is **REQUIRED** to submit drawings in compliance with 37 CFR 1.84, particularly drawings with the appropriate margins, views and view numbering. These drawings must correspond to the brief description.

In addition, the specification was filed with about 54 pages of computer program listings. 37 CFR 1.96(c) requires that any computer program included with an application that is over 300 lines be included on a compact disc as provided by 37 CFR 1.52(e). Applicant is **REQUIRED** to submit the computer program listing on a compact disk, and to cancel the computer program from the specification and to add the reference required by 37 CFR 1.96(c) at the position specified in 37 CFR 1.77(b)(4).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination to await any reply from applicant.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-3159.

Karin Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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. 17

MAILED

MAR 4 2003

OFFICE OF DIRECTOR
GROUP

WARNER, NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

In re Application of:
Overbeck, *et al.*
Application No. 09/733,162
Filed: December 08, 2000
For: OPTICAL MEASUREMENT DEVICE AND RELATED PROCESS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 11, 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(I), (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 contains items (a)-(e) in accordance with M.P.E.P., Section 708.02, Item VIII.

Accordingly, the petition is granted.

The application is being forwarded to the examiner for examination under the accelerated examination procedure.

If the examiner determines that restriction is necessary, he/she will follow the established telephone practice to resolve the restriction. If applicant elects with traverse the application will be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

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. Section 1309.

The petition is granted to the extent indicated.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Mail Date: 04/21/2010

Applicant	: Badri N. Prasad	: DECISION ON REQUEST FOR
Patent Number	: 7640175	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/733,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Mail Date: 05/18/2010

Applicant : Badri N. Prasad
Patent Number : 7640175
Issue Date : 12/29/2009
Application No: 09/733,215
Filed : 12/08/2000

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **989** 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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JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

In Re Application:
TANIMOTO, YOSHIFUMI
Appl No. 09/733,230
Filed: December 8, 2000
Title: **FACSIMILE MACHINE**

: WITHDRAW FROM ISSUE
: FEE PAID

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(1).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Kimberly Williams 571-272-7471.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Leo Boudreau
Acting, Director TC 2600
Communications

Cc: Office of Publications
Patent Clerk - ST-08C15
Supervisory Correspondence - ST-08C15

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: June 23, 2005

TO: Director, Office of Publication
South Tower 8A01

FROM: Leo Boudreau
Acting Director, Technology Center 2600
KNX 8D70

SUBJECT: WITHDRAWAL FROM ISSUE

Applicant: TANIMOTO, YOSHIFUMI
Serial No.: 09/733230
Filed: December 8, 2000

The above-identified application has been assigned Patent No. 6,917,439 and an issue date of July 12, 2005.

The above-identified application has been withdrawn from issue.

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 Official Gazette of August 9, 2005.

> "All reference to Patent No. 6,917,439, TANIMOTO, YOSHIFUMI of UJI-SHI, Japan for **FACSIMILE MACHINE** appearing in the Official Gazette of July 12, 2005 should be deleted since no patent was granted."

Leo Boudreau
Acting Director, Technology Center 2600
Communications

cc: McAskill
Deneise Boyd
Tamara Greene
Niomi Farmer

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

Inhale Therapeutic Systems, Inc.
150 Industrial Road
San Carlos, CA 94070

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SEP 2 5 2002

OFFICE OF PETITIONS

In re Application of :
David B. Bennett, et al. :
Application No. 09/733,269 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 0032.20 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed February 27, 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 28, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111; or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUDITH A. SZEPESI
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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APR 20 2006

OFFICE OF PETITIONS

In re Application of :
Bruce Tribbensee :
Application No. 09/733,274 : ON PETITION
Filed: December 7, 2000 :
Attorney Docket No. 002880.P005 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 1, 2005 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 2, 2005.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the non-final Office action of March 1, 2005 is accepted as having been unintentionally delayed.

The statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "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 this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

This application will be referred to Technology Center AU 2163.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 17 2010

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of :
Yamada, et al. : LETTER REGARDING
Application No. 09/733,332 : PATENT TERM ADJUSTMENT
Filed: December 8, 2000 :
Atty. Docket No. 09812.0475-0000 :

This is a decision on the "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Clarification of Calculation" filed September 23, 2009, which is being treated as a request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy in view of applicants' duty of good faith and candor to the Office.

The request for review of the patent term adjustment is **DISMISSED**.

On June 29, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 925 days. The instant comment was filed on September 23, 2009. Applicants surmise that the patent term adjustment of 925 days appears to be longer than appropriate and, that based on applicants' calculation, the patent term adjustment should be 924 days. Applicants did not specifically state how applicants believe the alleged miscalculation occurred.

A review of the application reveals no circumstances that would warrant entry of an additional 1 day reduction to the patent term adjustment. It is noted that applicants filed an amendment after final rejection on January 3, 2007, three months and 1 day after a final Office action was mailed on October 2, 2006. It is further noted that, by an Advisory Action mailed February 1, 2007, applicants were informed that the amendment after final rejection was not entered because the amendment failed to place

the application in condition for allowance. As the amendment filed January 3, 2007, was not in compliance with 37 CFR 1.113(c), the period for reply to the final Office action, pursuant to 37 CFR 1.704(b), continued to run. Thus, entry of any reduction to the patent term adjustment would not have been proper at this point. The proper reply to the final Office action, a Request for Continued Examination, was not filed until February 9, 2007. The patent term adjustment was reduced by 38 days, pursuant to 37 CFR 1.704(b), for applicant delay for the period beginning January 3, 2007, the day after the date that is three months after the mailing date of the final Office action, and ending on February 9, 2007, the date the reply in compliance with 37 CFR 1.113(c) was filed.

Thus, it is concluded that entry of an additional 1 day reduction of the patent term adjustment is not warranted.

In view thereof, the patent term adjustment of 925 days as indicated by the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed June 29, 2009, will not be changed.

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the $200.00 application fee under 37 1.18(e). The Office thanks the applicants for the applicants' good faith and candor in bringing this to the attention of the Office.

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 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 decision should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 5

LINDA MILOR
1730 HIGHLAND PLACE #1
BERKELEY CA 94709

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OCT 22 2004

OFFICE OF PETITIONS

In re Application of	:	
Orshansky, et al.	:	
Application No. 09/733,411	:	ON PETITION
Filed: December 11, 2000	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 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 application became abandoned for failure to timely reply to the Office action mailed September 23, 2002. The Office action set a one (1) month period to reply. Accordingly, this application became abandoned on October 24, 2002. A Notice of Abandonment was mailed on May 7, 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 pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an

application, 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(d).

The instant petition does not satisfy requirement (2) above.

The required petition fee as set forth in 37 CFR 1.17(m) has not been submitted. As such, the petition may not be reviewed on the merits at this time.

Please note, if petitioner wishes to assert non-receipt of an Office action, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181. A petition under 37 CFR 1.181 to withdraw the holding of abandonment should be submitted to Technology Center 2800 and not the Office of Petitions.

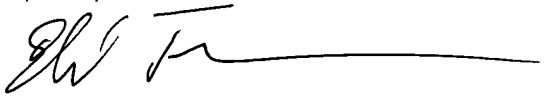
Further correspondence with respect to the instant petition under 37 CFR 1.137(b) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 5

LINDA MILOR
1730 HIGHLAND PLACE #1
BERKELEY CA 94709

COPY MAILED

OCT 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Milor, et al.	:	
Application No. 09/733,412	:	ON PETITION
Filed: December 11, 2000	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 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 application became abandoned for failure to timely reply to the Office action mailed October 30, 2002. Accordingly, this application became abandoned on January 31, 2002. A Notice of Abandonment was mailed on July 16, 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 pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, 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(d).

The instant petition does not satisfy requirement (2) above.

The required petition fee as set forth in 37 CFR 1.17(m) has not been submitted. As such, the petition may not be reviewed on the merits at this time.

Please note, if petitioner wishes to assert non-receipt of an Office action, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181. A petition under 37 CFR 1.181 to withdraw the holding of abandonment should be submitted to Technology Center 2800 and not the Office of Petitions.

Further correspondence with respect to the instant petition under 37 CFR 1.137(b) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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
Washington, D.C. 20231
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Docketing Mgr.

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Paper No. 3

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

OIPE
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PATENT & TRADEMARK OFFICE

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Stephen Joseph McDonagh
Application No. 60/239,469
Filed: December 7, 1999
Attorney Docket No. 004148.P0[illegible]

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(e), filed February 9, 2001, requesting that the above-identified provisional application, be accorded a filing date of December 7, 1999, rather than the presently accorded filing date of October 10, 2000.

The above-identified application was first received in the Office on October 10, 2000. However, petitioner maintains that the instant provisional patent application was originally prepared and filed via Express Mail, under 37 CFR 1.10, on December 7, 1999. Petitioner contends that all requirements of 37 CFR 1.10(a) and 1.10(b) were met and that there was not reason to believe the application would not have arrived at the USPTO. In view of the petition and the attached documents, petitioner requests that the filing date for the above-referenced provisional patent application be specified as December 7, 1999. In support thereof, petitioner submitted:

- the statement under CFR 1.10(e)(4), by patent attorney Robert O'Rourke;
- a deposit certificate signed on December 7, 1999, by the individual who deposited the correspondence with the USPS;
- a "true" copy of the Express Mail mailing label number EL396332950US; and
- "true" copies of the provisional cover letter transmittal, the provisional application, the fee transmittal and the check (the originally-deposited correspondence).

Petitioner's evidence has been considered and it has been determined that petitioner has made the required showing under §1.10(e)[1].

---

[1] (e) Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;"

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy

The declaration of patent attorney Robert O'Rourke supports a conclusion that petitioner filed the instant petition promptly within the meaning of §1.10(e)(1). The declaration shows that petitioner waited a reasonable period for return of the receipt postcard and receipt of a filing receipt. Upon discovering the lack thereof on October 10, 2000, petitioner contacted the Office; there was no record in the Office of the application being filed, although according to petitioner, numerous searches were performed using different database fields. Petitioner refiled the application, and subsequently, filed this petition.

Furthermore, the evidence establishes that the correspondence was deposited with the USPS on December 7, 1999, and should be considered filed in the Office on that date, not October 10, 2000. Specifically, the evidence reveals that:

- The "true" copy of the "Express Mail" mailing label is one of the USPS's "Post Office to Addressee" service, is addressed to the Office as set out in §1.1(a), is identified by the Express Mail mailing label number EL396332950US, bears the official USPS date stamp of "December 7, 1999, San Jose CA," and includes a "date-in" of December 7, 1999, entered by a postal employee as evidenced by the clerk's initials thereon.
- The "true" copy of the originally-filed correspondence includes the provisional application cover letter and the title page of the patent application. Both pieces of correspondence bear the "Express Mail" mailing label number EL396332950US, and the number appears to have been placed on the correspondence prior to the original mailing.
- Attorney O'Rourke, in his statement under §1.10(e)(4), attests to having submitted "true" copies of the originally mailed correspondence and to the application having been originally deposited on December 7, 1999.
- The Deposit Certificate submitted is a signed certificate created by petitioner on December 7, 1999, to certify that the referenced package was deposited on that date. It identifies the package being deposited by the docket number of the instant provisional application, by Express Mail label number EL396332950US, by the proper 1.1(a) addressee, and is signed by the depositor of the correspondence on

---

of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS. Such statement must be a verified statement if made by a person other than a practitioner as defined in §10.1(r) of this chapter.

December 7, 1999, verifying that the deposit occurred on that date.

- Finally, petitioner's evidence is corroborated by data in the Office's USPS Express Mail Information Database, showing that the package, Express Mail number EL396332950US, was accepted by the USPS at 7:30 pm on December 7, 1999, and delivered to the Office on December 9, 1999 (copy enclosed and made of record).

In view thereof, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to December 7, 1999.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure:
USPTO's USPS Express Mail Information Database Printout

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. 18

MARTIN J. HIRSCH
MARSHAL, O'TOOLE, GERSTEIN, MURRAY & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6402

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Richard E. Rowe :
Application No. 09/733,490 : DECISION GRANTING PETITION
Filed: December 8, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 29757/P-346 :

This is a decision on the petition, filed June 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 6, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 11, 2003 was mailed on September 3, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3713 for processing the Request for Continued Examination and for consideration of the amendment filed June 24, 2003 (certificate of mailing date of June 20, 2003) in reply to the final Office action of February 21, 2003.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Martin J. Hirsch
Marshal, O'Toole, Gerstein, Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard E. Rowe	:	
Application No. 09/733,490	:	ON PETITION
Filed: December 8, 2000	:	
Attorney Docket No. 29757/P-346	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 30, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment mailed July 30, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition 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. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment to the specification filed with the instant petition.

The application file is being referred to Technology Center Art Unit 3713, for 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

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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Law Offices of Albert S. Michalik, PLLC
704 – 228th Avenue NE
Suite 193
Sammamish, WA 98074

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FEB 20 2008
OFFICE OF PETITIONS

In re Application of :
Neta J. Amit et al. :
Application No. 09/733,522 : DECISION ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 2210 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 April 6, 2007, 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 July 7, 2007. A Notice of Abandonment was mailed on November 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition 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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3627 for appropriate action by the Examiner in the normal course of business on the reply received December 10, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICES OF ALBERT S. MICHALIK, PLLC
704 - 228TH AVENUE NE
SUITE 193
SAMMAMISH, WA 98074

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JUN 12 2009

OFFICE OF PETITIONS

In re Application of :
Amit et al. :
Application Number: 09/733522 :
Filing Date: 12/08/2000 : ON PETITION
Attorney Docket Number: 2210 :

This is a decision on the paper filed on April 28, 2009, which is treated as a petition under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

This application became abandoned on December 4, 2008, for failure to timely submit a reply to the non-final Office action mailed on September 3, 2008, which set a three (3) month

[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 Director 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)).

shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on March 17, 2009.

Receipt of the amendment filed on April 28, 2009 is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on April 28, 2009, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on September 3, 2008, and therefore is unnecessary. The extension of time fee paid on April 28, 2009, will be refunded to counsel.

Receipt of the revocation and power of attorney filed on March 19, 2009 is acknowledged. All future correspondence will be mailed to the new address of record. The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to Technology Center Art Unit 3627 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

Cc: RICHARD C. IRVING
10480 LITTLE PATUXENT PARKWAY
SUITE 400
COLUMBIA MD 21044

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/733,522	12/08/2000	Neta J. Amit	2210

CONFIRMATION NO. 1989

LAW OFFICES OF ALBERT S. MICHALIK, PLLC
704 - 228TH AVENUE NE
SUITE 193
SAMMAMISH,, WA 98074

POWER OF ATTORNEY NOTICE

Date Mailed: 06/12/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/19/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/diwood/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/733,522	12/08/2000	Neta J. Amit	2210

CONFIRMATION NO. 1989

69316
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

POA ACCEPTANCE LETTER

Date Mailed: 06/12/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/19/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/diwood/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

MAIL

JAN 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OPPENHEIMER WOLFF & DONNELLY LLP
Attn: James W. Inskeep
Suite 700
500 Newport Center Drive
Newport Beach CA 92660

In re Application of :
Donald C. Mead :
Application No. 09/733,562 : DECISION ON REQUEST TO
Filed: December 8, 2000 : WITHDRAW AS ATTORNEY
:
For: **HIGH SPEED FILM TO DIGITAL CONVERSION** :

This is a decision on the request to withdraw as attorney/agent of record filed on October 17, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Attorney/Agent James W. Inskeep and all attorney/agents associated with Customer Number 25204 requesting the withdraw are withdrawn. It is noted that the remaining Attorneys/Agents listed in the Declaration remain of record.

Accordingly, the request is **GRANTED**.

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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc:
Dr. DONALD C. MEAD
4140 Adams St.
CARLSBAD, CA 92008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Interventional Technologies Inc.
3574 Ruffin Road
San Diego, CA 92123

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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Peter Barath :
Application No. 09/733,563 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 70762.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2002, with a certificate of mailing dated October 23, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice To File Corrected Application Papers mailed February 8, 2001, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on April 9, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVE., SUITE 360
MISSION VIEJO, CA 92691

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Jes Thyssen :
Application No. 09/733,567 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 10508.2000CXT0669N NAD

This is a decision on the petition filed, May 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

[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.: X

DATE : **April 4, 2007**

TO SPE OF : ART UNIT **2611**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09733567** Patent No.: **7164719B2**

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

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: _____

_____

_____

_____

_____

S. Sherwaryn Tin — **SPE**

2611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

BRADLEY J. BEREZNAK
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

MAIL

MAY 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Benson

Application No. 09/733,583
Filed: December 07, 2000
For: HEADERLESS SPLIT SECTOR FORMAT FOR OPTICAL DISK DRIVES

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 30, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Maxoptix Corporation
246 S. Taylor Avenue
Louisville, Colorado 80027

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP DOUGLAS LANE
P.O. BOX 651295
POTOMAC FALLS VA 20165-1295

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OFFICE OF PETITIONS

In re Application of
Darren Rogers et al.
Application No. 09/733,602
Filed: December 8, 2000
Attorney Docket No. 1391 (TOUCHSTONE)

ON PETITION

This is a decision on the petition filed December 27, 2004, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the Notice of Informal Application, purportedly mailed May 16, 2001. A Notice of Abandonment was mailed November 17, 2004.

Petitioner argues that the Notice dated May 16, 2001 was never received and submits a declaration from the Attorney of record at the time the Notice was purportedly mailed, to substantiate the claim of non-receipt and thus that the failure to respond was unavoidable. An oath or declaration in compliance with 37 CFR 1.63 including the residence of each inventor is provided with the petition.

A review of the file reveals a few irregularities with the claim that a Notice of Informal Application was mailed. First, the Notice dated May 16, 2001 notes that the time period for reply was to be indicated in an accompanying Office Action and secondly, the USPTO PALM records fail to indicate a mail date for the Notice or any Office Action in 2001.

---

[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©)).

In view thereof, it doesn't appear that notification of the defective declaration and the requirement to correct the file was ever given.

Additionally, petitioner's argument that the file was correct upon filing has not been substantiated because, while a copy of the oath or declaration with the signature page from the assignment is on file with a filing date of December 8, 2000, there does not appear to be a copy of the assignment with the incorrect signature page on file with a receipt date of December 8, 2000 as claimed. The explanation given for the defective oath is that the signature pages for the assignment and that for the oath or declaration somehow were switched but the only evidence presented to support the claim is the application transmittal which is not proof of what was filed only what was intended to be filed.

However, in view of the lack of notification that the oath or declaration was defective and that a required reply was due within a specific period of time to avoid abandonment, failure to file a timely reply has been determined to have been unavoidable.

This application is revived and this matter thus will be referred to the Publishing Division for further processing.

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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Paper No. 5

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AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

RICHARD T. OGAWA
TOWNSEND AND TOWNSEND AND CREW LLP
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-3834

In re Application of :
MOLLOY, STEPHEN A. :
Application No. 09/733,612 :
Filed: December 8, 2000 :
For: PROCESSOR ARCHITECTURE FOR COMPRESSION AND DECOMPRESSION OF VIDEO AND IMAGES :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 7, 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.**

Richard T. Ogawa is granted the request for withdraw. However, Customer No. 20,350 is not associated with the file. Accordingly, Stephen Y. Pang remains of 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.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: WILLIAM L. PARADICE, III
PATENT ATTORNEY
425 CALIFORNIA STREET
SUITE 900
SAN FRANCISCO, CA 94104

#19
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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Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

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JUN - 2 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
G. Scott Barbieri et al.
Application No. 09/733,626
Filed: December 8, 2000
For: SLIDING DEVICE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed in the United States Patent and Trademark Office on January 9, 2002 and supplemented on May 29, 2003.

The petition is **GRANTED**.

A review of the file record indicates that an Office action was mailed to the applicants on May 6, 2002 wherein a three-month shortened statutory period for response was set. Since no timely response to the May 6, 2002 Office action was received, the application was held to be abandoned, and a notice to that effect was mailed on December 17, 2002.

Applicant's petition includes a copy of a response bearing a Certificate of Facsimile Transmittal date of July 30, 2002. A statement by Jason Honeyman was received on May 29, 2003, which attests to the personal knowledge of the transmission of the response on the date indicated on the Certificate of Facsimile Transmittal. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Kenneth J. Dorner

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 5/30/03

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United States Patent and Trademark Office
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DTW 04-02

Paper No. 8

J.M. (MARK) GILBRETH
GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE TX 77402-2428

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APR 0 8 2002

OFFICE OF PETITIONS

In re Application of	:	
William D. Brown	:	
Application No. 09/733,631	:	ON PETITION
Filed: 7 December, 2000	:	
Attorney Docket No. 23354/49C2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on 12 March, 2002, to revive the above-identified application. This is also a decision on the petition filed on 12 March, 2002, requesting that the above-identified application be accorded a filing date of 8 December, 2000, with Pages 19 and 22 of the specification as a part of the original disclosure, which is treated as a petition under 37 CFR 1.53.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.182 is **DISMISSED**.

Petitioner is given **TWO MONTHS** to file a request for reconsideration (no further petition fee required). The failure to file a request for reconsideration within two months of the date of this decision (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the PTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**

Petition Under 37 CFR 1.137(b)

The above-identified application became abandoned on 13 March, 2001, for failure to timely file the statutory basic filing fee and surcharge for its late filing as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 12

January, 2001, which set a two (2) month period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petition Under 37 CFR 1.182

On 8 December, 2000, Application No. 09/733,631 was deposited as a continuation of Application No. 08/946,712, filed on 8 October, 1997, and which issued as U.S. Patent No. 6,168,744 on 2 January, 2001.

On 12 January, 2001, Initial Patent Examination Division mailed a Notice of to File Missing Parts of Nonprovisional Application, notifying petitioners that the application had been accorded a filing date but, *inter alia*, Pages 19 and 22 of the specification appeared to have been omitted from the application.

In response, on 12 March, 2002, the present petition was filed. Petitioners assert that Pages 19 and 22 of the specification were among the application papers deposited on 8 December, 2000. In support, petitioners state that a copy of their itemized postcard receipt, itemizing the filing of a "[c]opy of the prior patent application...as filed in parent." Petitioners request that the application, including Pages 19 and 22 of the specification, should be accorded a filing date of 8 December, 2000.

At the outset, it is noted that no copy of an itemized postcard receipt itemizing the filing of the application is located among the papers received with the petition on 12 March, 2002. Any renewed petition should include a copy of the postcard receipt. However, assuming, *arguendo*, that petitioners' supplied a date-stamped postcard receipt itemizing the filing of a "[c]opy of the prior patent application," such postcard does not properly itemize the specification with regard to the pages comprising the specification. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[1] A postcard receipt will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized

[1] See section 503, Manual of Patent Examining Procedure (MPEP 503).

and identified. Furthermore, an application transmittal letter is, at best, only evidence of what was intended to be filed, not evidence of what was actually received or filed in the USPTO.

Moreover, petitioners' assertion that Pages 19 and 22, which were omitted on filing and a part of a copending application mentioned on the application transmittal sheet are a part of the original disclosure, is not persuasive. A review of the record reveals that the specification, as filed, consists of Pages 1-18, 20, 21, and 23-36. The specification as filed, however, does not contain Pages 19 and 22. Clearly Pages 19 and 22 were intended to be a part of this application. Whether Pages 19 and 22 were a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[2] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[3] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. Pages 19 and 22 were simply not filed in the USPTO on 8 December, 2000. Matter included in Pages 19 and 22 may be submitted as an amendment for consideration by the examiner under MPEP sections 608.02(p) and 608.04. In view of the above, the application cannot be accorded 8 December, 2000, as the application filing date with Pages 19 and 22 as a part of the original disclosure.

The application will be processed and examined using only the application papers present on 8 December, 2000. The copies of Pages 19 and 22 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The declaration filed with the present petition on 12 March, 2002, which states that Ajay P. Malshe, Arzu M. Ozkan, and William D. Brown are joint inventors does not correctly recite the inventive entity. 37 CFR 1.41(a)(1) now defines the

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[2] See MPEP 608.01(p). It is noted that the transmittal sheet contained an incorporation by reference paragraph with a box next to it to be checked if the paragraph is applicable. As the box next to the incorporation by reference paragraph is not checked, it is apparent that no incorporation by reference was intended.

[3] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63. The declaration filed on 6 December, 2000, lists William D. Brown as the sole inventor. A petition under 37 CFR 1.48 is required to amend the inventive entity.

Receipt of the change of correspondence address filed on 12 March, 2002, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 8 December, 2000, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 13

JEFFREY S SMITH
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
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LOS ANGELES CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Michael L. Maritzen :
Application No. 09/733,750 :
Filed: December 8, 2001 : DECISION ON PETITION
Attorney Docket No. 80398.P400 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed June 12, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on September 5, 2001. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of November 27, 2003 accompanies this decision on petition.

The application is being forwarded to Technology 3600 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing (2 pages)

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LOS ANGELES, CA 90025-1030

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Varghese George et al :
Application No. 09/733,766 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 42390.P9726 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 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 March 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 7, 2005 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2112.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY & LARDNER LLP
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SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
Noel et al.	:	
Application No. 09/733,773	:	DECISION ON APPLICATION
Filed: December 8, 2000	:	FOR
Attorney Docket No. SALK2410	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed December 28, 2005. Applicants request correction of the patent term adjustment from three hundred fifty-six (356) days to seven hundred three (703) days solely on the basis of the Office taking in excess of three years to issue the patent (given the projected patent issue date).

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[1]. To this extent, 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 patentees are 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

[1] Applicants otherwise agree with the adjustments and reductions of record at the time of the mailing of the notice of allowance.

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 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).

However, it is noted that a review of the application history reveals a further basis for entry of a period of reduction. Specifically, 37 CFR 1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

Further, as stated in the final rule, the reference to " 1.135(c)" is parenthetical because 1.704(c)(7) is not limited to Office actions under 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 1.821 et seq.

In this instance, a response to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) filed June 4, 2001 was determined to contain an omission and a response correcting the omission was filed on July 9, 2001. Accordingly, a period of reduction of 35 days should have been entered.

In view the correct patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred twenty-one (321) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred twenty-one **(321)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee is required and will not be waived.

The Office of Patent Publication has been advised of this decision. The application is, thereby, being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Saturday
Date: 9/16/2006

PALM INTRANET

Time: 17:08:03

PTA Calculations for Application: 09/733773			
Application Filing Date:	12/08/2000	PTO Delay (PTO):	508
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	152
Post-Issue Petitions:	0	Total PTA (days):	321
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	09/16/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
48	09/29/2005	MAIL NOTICE OF ALLOWANCE			
47	09/22/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	09/22/2005	ISSUE REVISION COMPLETED			
44	09/22/2005	NOTICE OF ALLOWABILITY			
43	09/22/2005	DATE FORWARDED TO EXAMINER			
42	09/02/2005	AMENDMENT AFTER FINAL REJECTION		57	34
41	09/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/28/2005	MAIL ADVISORY ACTION (PTOL - 303)			
38	07/25/2005	ADVISORY ACTION (PTOL-303)			
37	07/13/2005	DATE FORWARDED TO EXAMINER			
36	07/07/2005	AMENDMENT AFTER FINAL REJECTION			
35	06/23/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	04/07/2005	MAIL FINAL REJECTION (PTOL - 326)			
33	04/04/2005	FINAL REJECTION			
32	01/28/2005	DATE FORWARDED TO EXAMINER			
31	01/18/2005	RESPONSE AFTER NON-FINAL ACTION		33	29
30	01/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/16/2004	MAIL NON-FINAL REJECTION			
28	09/15/2004	NON-FINAL REJECTION			
27	07/15/2004	DATE FORWARDED TO EXAMINER			
26	05/24/2004	RESPONSE AFTER NON-FINAL ACTION		62	20
25	05/24/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			

24	05/24/2004	WORKFLOW INCOMING PETITION IFW			
22	05/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	02/04/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	12/23/2003	MAIL NON-FINAL REJECTION			
19	12/18/2003	NON-FINAL REJECTION			
18	10/01/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
17	10/14/2003	DATE FORWARDED TO EXAMINER			
16	10/01/2003	RESPONSE AFTER NON-FINAL ACTION			
15	07/01/2003	MAIL NON-FINAL REJECTION	508		-1
14	06/30/2003	NON-FINAL REJECTION			
13	02/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	01/16/2002	APPLICATION DISPATCHED FROM OIPE			
10	01/15/2002	APPLICATION IS NOW COMPLETE			
9	08/22/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	07/10/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
7	05/17/2001	CORRESPONDENCE ADDRESS CHANGE			
6	03/05/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/05/2001	CORRESPONDENCE ADDRESS CHANGE			
4	01/08/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	01/04/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	12/08/2000	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/08/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

MIRICK, O'CONNELL, DEMALLIE & LOUGEE
100 FRONT STREET
WORCESTER MA 01608

Paper No. 13

In re Application of :
Hans A. Mische :
Application No. 09/733,775 : ON PETITION
Attorney Docket No. 20395-00001 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 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 Notice of Informal or Non-Responsive Amendment mailed January 08, 2004, which set a 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 February 09, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the appropriate reply to the Notice of Informal or Non-Responsive Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Informal or Non-Responsive Amendment of January 08, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3743 for appropriate action on the concurrently filed election.

David A. Bucci
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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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

COPY MAILED

SEP 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Hans A. Mische :
Application No. 09/733,775 : DECISION ON PETITION
Filed: December 8, 2000 : TO WITHDRAW
Attorney Docket No. : 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 8, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Mirick, O'Connell, Demallie & Lougee, LLP has been revoked by the applicant of the patent application on November 13, 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 undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: HANS A. MISCHE
32 HIGHBANKS PLACE
SAINT CLOUD, MN 56301

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/733,775	12/08/2000	Hans A. Mische	

CONFIRMATION NO. 2947

POWER OF ATTORNEY NOTICE

28534
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

OC000000037528407

Date Mailed: 08/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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

Molly D. McKay
3207 East 22nd Street
Tulsa, OK 74114-1823

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JUN 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Dan C. Morgan :
Application No. 09/733,794 : DECISION GRANTING PETITION
Filed: December 7, 2000 : UNDER 37 CFR 1.137(f)
Attorney Docket No. MB4315.001 :

This is a decision on the petition filed March 5, 2002 and supplemented on May 28, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

This application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found in compliance with the 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of September 5, 2002 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2623 for examination in due course.

Frances Hicks

Frances M. Hicks
Lead 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
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DR. JOHN T. NOSEK
PRES, SENSEMAKING TECHNOLOGIES CORP.
215 REDMAN
HADDONFIELD NJ 08033

COPY MAILED

FEB 23 2006

OFFICE OF PETITIONS

In re Application of
William S. Rickards III et al. :
Application No. 09/733,800 : ON PETITION
Filed: December 9, 2000 :
Title of Invention: COLLABORATION ENGINE: ADDING COLLABORATION FUNCTIONALITY TO COMPUTER SOFTWARE

This is a decision on the petition filed January 6, 2006, to revive the above identified application under 37 CFR 1.137(a)[1].

The petition to revive under 37 CFR 1.137(a) is **GRANTED**.

The application was held abandoned on April 14, 2005, for failure to file a timely response to the Final Office Action mailed January 13, 2005. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on December 2, 2005.

Petitioner asserts that a response to the Final Office Action, a Request for Continued Examination (RCE) and a request for a two month extension of time request, was timely filed and has submitted a copy of the reply said to have sent but not received in the U.S. Patent and Trademark Office.

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

---

[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©)).

> 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]

A review of the response (RCE) said to have been timely filed, reveals that it contains a certificate of mail pursuant to 37 CFR 1.8, dated June 24, 2005, and was signed by John T. Nosek on behalf of the assignee and with a statement under 37 CFR 3.73(b). A further review reveals that the RCE fee in the amount of $395.00 and the two month extension of time fee in the amount of $225.00 were both properly and timely applied to the finance account for the instant application.

It is noted therefore that the Notice of Abandonment was sent in error as the response was timely filed.

This matter is being referred to Technology Center 2193 for processing of the RCE and amendment filed June 24, 2005 and resubmitted December 9, 2005.

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

---

[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).

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Paper No. 6

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDALE, FL 33322

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APR 14 2004

OFFICE OF PETITIONS

In re Application of :
Jose E. Korneluk, et al. :
Application No. 09/733,831 : ON PETITION
Filed: December 11, 2000 :
Attorney Docket No. CM03265J :

This is a decision on the petition, filed March 17, 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 21, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

The petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the papers filed March 17, 2004 differ from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries 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 2864 for consideration of the amendment filed March 17, 2004.

/Sherry D. Brinkley
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)
6346861	2002-02-12	09/733,837	2000-12-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◯	3 ½ year	(2551)
◯	7 ½ year	(1552)	◉	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark E. Wallerson/	Date (YYYY-MM-DD)	2010-02-25
Name	Mark E. Wallerson	Registration Number	59043

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
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In re Patent No. 6346861
Issue Date: February 12,2002
Application No. 09733837
Filed: December 7,2000
Attorney Docket No. 51876P208

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

ALZA Corporation
P.O. Box 7210
1900 Charleston Road
Mountain View CA 94043

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of :
Dong et al. :
Application No. 09/733,847 : ON PETITION
Filed: 8 December, 2000 :
Atty Docket No. ARC 2644 R1 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 5 January, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 17 June, 2003, for failure to file a proper response to the Notice of Appeal filed on 16 April, 2003, which set a two (2) month shortened period for reply. No extensions of the time in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[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)).

On 5 January, 2004, petitioners filed a Request for Continued Examination (RCE) and an information disclosure statement (IDS) as the submission required under 37 CFR 1.114.

The change of correspondence address filed on 5 January, 2004, cannot be accepted because it was not signed by an attorney of record.[2] 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 mailed. 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.

This application is being forwarded to Technology Center 1600 for processing of the RCE and IDS filed on 5 January, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Samuel E. Webb
Alza Corporation
c/o Johnson & Johnson
One Johnson & Johnson Plaza, WH3321
New Brunswick, NJ 08933

[2] See MPEP §§ 601.03 and 405.

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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SEP 9 2005

ADENIKE A. ADEWUYA
DEWIPAT INCORPORATED
4606 FM 1960 WEST, SUITE 400
HOUSTON TX 77069

In re Application of :
Lianf C. Dong et al :
Serial No.: 09/733,847 : PETITION DECISION TO RESTART
Filed: December 8, 2000 : PERIOD FOR REPLY
Attorney Docket No.: ARC2644R1 :

This is in response to the petition under 37 CFR 1.181, filed August 15, 2005, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a Final Office action to applicants on April 5, 2005, setting a three month shortened statutory period for reply. The action was mailed to applicants' former address, Johnson & Johnson in New Jersey. Applicants filed an Associate Power of Attorney on January 6, 2005, requesting the address be changed to that above. (It is noted that Associate Powers of Attorney are no longer recognized, but the change of address should have been entered.) However the address was not changed in PALM. Applicants state that they did not receive the Office action until July 29, 2005, more than three months after the mailing thereof. A proper change of address has now been received and entered. In view of the Office error in not entering the previous change of address the period for reply will be restarted.

The petition is **GRANTED**.

The period for reply to the Office action originally mailed April 5, 2005, is hereby restarted as of applicantsɔ date of receipt, July 29, 2005. The time period for reply remains as set therein.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

SEP 23 2002

OFFICE OF PETITIONS

In re Application of :
Helmer et al. :
Application No. 09/733,869 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 5051-473 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of the Nonprovisional Application mailed March 30, 2001, which set a two-month period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on May 31, 2001. The present petition preceded the mailing of a Notice of Abandonment.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/25/08

TO SPE OF : ART UNIT 3623

SUBJECT : Request for Certificate of Correction on Patent No.: 7110958

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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

All changes are approved.

Beth Boswell — SPE

3623 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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MAR 0 7 2003

OFFICE OF PETITIONS

Applicant: Pinzon et al.
Appl. No.: 09/733,896
Filing Date: December 12, 200
Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE POLYMERS AND METHODS OF USING SAME
Attorney Docket No.: 05725.0806-00
Pub. No.: US 2002/0120036 A1
Pub. Date: August 29, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 29, 2002 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request includes a mistake that is not the fault of the Office, which will not be corrected by a corrected publication made by the Office.

Specifically, the material error applicant labels "1" is that the assignment information was not printed on the patent application publication. The assignment information was not printed on the front page of the published application, because it was not provided on the transmittal letter or on

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

an application data sheet.[2]

Specifically, the material error applicant labels "2" is that paragraph 0006 should include a paragraph break between the sentence ending with "gums" and the sentence beginning with "[t]he invention also provides for." While this error is due to the lack of a period in the sentence which ends with "gums", it will be corrected in the corrected patent publication.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington, DC 20231

By facsimile: 703-305-8568

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[2]See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

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WENDEROTH, LIND & PONACK, L.L.P.
Suite 800
2033 K Street, N.W.
Washington, DC 20006

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of :
Sakamoto, et al. :
Application No. 09/733,926 : DECISION ON PETITION
Filed: December 12, 2000 :
Docket No.: 2000 1699A :
:

This is a decision on the petition under 37 CFR 1.181, filed January 9, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed June 9, 2006. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 5, 2007.

Petitioners assert non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof he Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2100 for re-mailing of the final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Patent No. 6,903,352	:	ON PETITION
Issued : June 7, 2005	:	
Application No. 09/733,980	:	
Filed: December 12, 2000	:	
Attorney Docket No. 862.C2072	:	

This is a decision on the petition under 37 CFR 1.182, filed May 3, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The file record discloses that the instant application matures into U.S. Patent No. 6,903,352 on June 7, 2005. However, petitioner contends that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the patent was never received.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 305-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-270-9937)

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
Suite 800
2033 "K" Street, N.W.
Washington DC 20006

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OFFICE OF PETITIONS

In re Patent of :
Seiki, et al. :
Patent No. 6,780,412 :
Issue Date: August 24, 2004 : Decision on Petition
Application No. 09/743,002 :
Filing Date: December 12, 2000 :
Attorney Docket No. 2000-1617 :

This is a decision on the petition under 37 CFR 1.183, filed September 24, 2004, to waive the rules and accept the correction of the assignee data of the above-identified patent by way of Certificate of Correction. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,

Copied from 09743002 on 03/14/2005

(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has not met the requirements set forth above because petitioner has not submitted a completed PTO/SB/44 Certificate of Correction form and petitioner has not paid the $100.00 certificate of correction fee. Therefore, the request is dismissed.

Please find enclosed a blank PTO/SB/44 Certificate of Correction form.

Any further correspondence regarding this matter should be directed to:

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

enclosure: blank PTO/SB/44 Certificate of Correction form

Copied from 09743002 on 03/14/2005

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Suite 800
2033 "K" Street, N.W.
Washington DC 20006

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Patent of :
Seiki, et al. :
Patent No. 6,780,412 :
Issue Date: August 24, 2004 :
Application No. 09/734,002 :
Filing Date: December 12, 2000 :
Attorney Docket No. 2000-1617 :

Decision Granting Petition

This is a decision on the reconsideration petition under 37 CFR 3.81, filed November 23, 2004 and supplemented on January 21, 2005, to accept the correction of the assignee data in the above-identified patent.

37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has satisfied the requirements listed above.

Therefore, the petition is **GRANTED**.

Regarding finances, petitioner has paid two $130.00 request/petition fees. Only one fee is required. Pursuant to petitioner's authorization, deposit account no. 23-0975 will be credited

$130.00.

After the mailing of this decision, the application file will be forwarded to Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Paper No. 19

Steven Bertrand
314 PHILADELPHIA AVE.
TAKOMA PARK, MD 20912

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of Bertrand
Application No. 09/734,003
Filed: December 12, 2000
For: SHOWER DEVICE

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 22, 2003 for failure to timely reply to the non-final Office action mailed February 21, 2003. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed August 26, 2003.

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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The correspondence address contained in the instant petition differs from that currently of record with the Office. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this

decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Enclosed please find a change of correspondence address for petitioner's consideration.

This application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

CC: STEVEN BERTRAND
57 WINDHAM ROAD
DERRY, NH 03038

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Paper No.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR &
ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

JAN 3 1 2005

Technology Center 2100

In re Application of:
Richard B. Gorelick
Application No. 09/734,045
Filed: December 12, 2000
For: AUTOMATICALLY INSERTING RELEVANT HYPERLINKS INTO A WEBPAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 18, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed January 18, 2005 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. III Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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

RICHARD L. CATANIA, ESQ.
SCULLY, SCOTT, MURPHY AND PRESSER
400 Garden City Plaza
Garden City, NY 11530

Mail Date: 04/21/2010

Applicant	: Rosario Gennaro	: DECISION ON REQUEST FOR
Patent Number	: 7640432	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/734,102	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1848** 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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WWW.USPTO.GOV

Paper No. 8

MR. S.H. DWORETSKY
AT&T CORP
P.O. BOX 4110
MIDDLETOWN, NJ 07748

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JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Vinay Kundaje et al :
Application No. 09/734,157 : ON PETITION
Filed: December 11, 2000 :
Attorney Docket No. 1999-0565 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 to the Notice to File Corrected Application Papers (Notice) mailed February 1, 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 2, 2001.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant

petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KENYON & KENYON
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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DALLAS TX 75380

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Kundaje, et al.	:	DECISION ON APPLICATION
Application No. 09/734,157	:	FOR PATENT TERM ADJUSTMENT
Filed: December 11, 2000	:	
Attorney Docket No. ATTW01-00015	:	

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT", filed December 28, 2005. 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**. The determination of PTA at the time of the mailing of the Notice of Allowance is **five (5) days**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **five (5) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is eight hundred forty-nine (849) days.

The Office initially determined a patent term adjustment of eight hundred forty-nine (849) days based on an adjustment for PTO delay of nine hundred forty-one (941) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by four (4) days and ninety-two (92) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

A review of the record reveals that Applicants should have been assessed an additional delay of eight hundred forty-three (843) days. A Notice to File Corrected Application Papers was mailed on February 1, 2001. Applicants failed to timely file a proper reply. Accordingly, the application became abandoned on April 2, 2001. A petition to revive was filed on July 10, 2003, and was granted in a decision mailed on July 24, 2003.

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
>
> (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 April 2, 2001 (the date the application became abandoned) to July 24, 2003 (the date the decision reviving the application was mailed), or 844 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **five (5) days** (941 days of PTO delay, reduced by 936 (92+844) 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 application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 09/734157			
Application Filing Date:	12/11/2000	PTO Delay (PTO):	941
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	5
PTO Delay Adjustment:	-844		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	03/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		844	
44	09/30/2005	MAIL NOTICE OF ALLOWANCE			
43	09/21/2005	ISSUE REVISION COMPLETED			
42	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	09/19/2005	NOTICE OF ALLOWABILITY			
40	09/12/2005	DATE FORWARDED TO EXAMINER			
39	09/01/2005	AMENDMENT AFTER FINAL REJECTION			
38	07/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
37	06/24/2005	FINAL REJECTION			
36	06/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	06/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
34	04/23/2005	DATE FORWARDED TO EXAMINER			
33	03/11/2005	RESPONSE AFTER NON-FINAL ACTION		92	29
32	03/11/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	07/26/2004	REFERENCE CAPTURE ON IDS			
30	07/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/09/2004	MAIL NON-FINAL REJECTION	941		-1
28	09/07/2004	NON-FINAL REJECTION			
27	08/31/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	06/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
25	06/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
24	03/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	03/25/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			

22	07/10/2003	MISCELLANEOUS INCOMING LETTER			
21	03/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	02/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	01/29/2001	REFERENCE CAPTURE ON IDS			
18	01/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/24/2004	CORRESPONDENCE ADDRESS CHANGE			
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15	08/13/2003	APPLICATION RETURN FROM OIPE			
14	08/14/2003	APPLICATION IS NOW COMPLETE			
13	08/13/2003	APPLICATION RETURN TO OIPE			
12	08/12/2003	APPLICATION DISPATCHED FROM OIPE			
11	08/13/2003	APPLICATION IS NOW COMPLETE			
10	07/10/2003	ADDITIONAL APPLICATION FILING FEES			
9	07/10/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	08/07/2003	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
7	07/24/2003	PETITION TO REVIVE APPLICATION - GRANTED			
6	07/10/2003	PETITION ENTERED			
5	09/05/2001	ABANDONMENT -- DURING PREEXAM PROCESSING			
4	02/01/2001	CORRESPONDENCE ADDRESS CHANGE			
3	01/24/2001	CORRESPONDENCE ADDRESS CHANGE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN D. KALVELAGE, IAN E. SALDITCH, GALEN NICKEY, JR. and TOOMAS OTS

MAILED

FEB 27 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2004-0220
Application No. 09/734,196

HEARD: February 17, 2004

Before ABRAMS, FRANKFORT, and STAAB, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

REMAND TO THE EXAMINER

The above identified application is being remanded to the examiner under the authority of 37 CFR § 1.196(a) and MPEP § 1211 for appropriate action with regard to the items listed below.

BACKGROUND

Independent claims 1 and 13 on appeal were amended in a paper filed April 25, 2002 (Paper No. 4) to respectively define a

sealed blister assembly wherein a plastic sheet having a recess formed therein and a plastic lid adapted to attach to the perimeter of the recess are specifically configured to cooperate with one another to form an "impermeable seal" and thereby define a sealed blister (claim 1), and a package assembly for dispensing a pharmaceutical medication comprising a plastic sheet having a medication receiving recess therein, a pharmaceutical medication positioned in the recess, and a plastic lid positioned in overlying relationship to the plastic sheet and recess, and configured with a raised ridge having an outside edge corresponding to the perimeter of the recess and frictionally engaging the perimeter to thereby close the recess and "impermeably seal" the medication therein (claim 13). On page 2 of the specification, appellants note that an objective of the invention is to provide a sealed blister assembly that does not require an adhesive or heat sealing process to seal a blister sheet and lidding sheet in order to form an "impermeable seal." It is appellants' intention that such a seal be formed "solely by engagement of an undercut in the plastic sheet and a shoulder in the plastic lid" (specification, page 1).

In the brief (Paper No. 15, page 4) appellants note that a preferred embodiment of the invention is as a medication package, and emphasize that there are strict and special requirements for such packaging, and that such packaging cannot be used and sold if it performs at less than rigorous impermeability standards. In the paragraph bridging pages 1 and 2 of the reply brief (Paper No. 18) appellants urge that "an essential element" of their invention is the "impermeable" nature of the seal of the blister assembly and contend that it was for that reason the "impermeable" limitation was added to independent claims 1 and 13.

Principal arguments in both the brief and reply brief urge that the seals present in Allers et al. (U.S. Patent No. 5,860,549) and Edwards et al. (U.S. Patent No. 5,339,973), applied by the examiner under 35 U.S.C. § 102(b) against independent claims 1 and 13, are not "impermeable seals" and that those patents do not actually teach or enable a seal that could be characterized in any way as an "impermeable seal."

By definition, an "impermeable seal" is one that is "not permeable" and thus does not permit fluids such as liquids and

gases to pass through it.[1] Therefore, the term "impermeable seal" used in appellants' independent claims 1 and 13 on appeal would appear to mandate a seal that is impervious to gases and liquids and is incapable of being passed through or penetrated by such fluids. However, notwithstanding the use of the terminology "impermeable seal" in the above-noted portions of appellants' specification and the argued fact that the impermeable nature of the seal is an "essential element" of appellants' invention, we note that appellants' own specification (pages 7 and 8) provides evidence that the seal formed in the present invention is not impervious to gases and liquids and thus incapable of being passed through or penetrated by such fluids. Accordingly, appellants' own specification would appear to indicate that the seal of the present invention is not "impermeable," but instead apparently provides an average moisture permeability rate of less than 5 mg/day, e.g., on the order of 3.2-3.5 mg/day. While this is apparently a low permeability rate, it nonetheless makes clear that appellants' seal is not "impermeable." Thus, we are at somewhat of a loss as to exactly how we should understand the

[1] Webster's New World Dictionary, second College Edition, Prentice Hall Press, 1986.

requirement in independent claims 1 and 13 on appeal which expressly set forth formation of an "impermeable seal."

ITEMS FOR CONSIDERATION ON REMAND

1. Before searching for and applying prior art to the claims of an application, it is an essential prerequisite that the claimed subject matter be fully understood. In the present case, it is abundantly clear that the examiner and appellants have not come to grips with or specifically set forth on the record exactly what the terminology "impermeable seal," added to the claims in the amendment filed April 25, 2002, is intended to mean in the context of the claims now before us on appeal. In fact, the examiner's explanation of the § 102(b) rejections of independent claims 1 and 13 found on pages 3 and 4 of the answer, does not even mention this limitation. Absent some reasoned interpretation of this claim terminology on the record, we are unable to evaluate the prior art rejections posited by the examiner. Accordingly, we remand for consideration of this issue and of whether or not appellants even have § 112, first paragraph, support for claims directed to an "impermeable seal."

2. In the § 102(b) rejections of independent claim 13, the examiner has made no effort whatsoever to address the specific combination of a package assembly and a pharmaceutical medication "positioned in" the recess of the package and impermeably sealed therein. The examiner's assertion that the food dish of Allers and the food storage container of Edwards are "fully capable of receiving medication" and that such is "merely a matter of intended use," does not explain how the specific combination recited in claim 13 is anticipated by the containers of Allers and Edwards. Accordingly, we remand for the examiner to provide such an explanation.

3. We also note the examiner's rejection of dependent claims 6-8 under 35 U.S.C. § 102(b) based on Allers, however, as urged by appellants in their brief, this patent has no specific disclosure or teaching of using "polyethylene" to form the sheet or lid of the food container therein, as is required in claims 6-8 on appeal. While the disclosure in Allers (col. 1, lines 14-15) indicates that the container therein may be formed of "a clear plastic of known type," we fail to see how this broad disclosure of a clear plastic would anticipate claims 6-8 on appeal. As for the examiner's reference on page 9 of the answer

to other patents of record which purportedly evidence that polyethylene is a conventional plastic material, we note that the rejection is under 35 U.S.C. § 102(b), not 35 U.S.C. § 103. On remand, the examiner may wish to reconsider the anticipation rejection.

4. Dependent claims 11 and 12 on appeal each set forth a limitation that the sealed blister of claim 1 is used for packaging a medication. Claim 11 then sets forth that the sealed blister "meets or exceeds the requirements to be a U.S.P. Class A individual unit-dose container," while claim 12 sets forth that the sealed blister "meets or exceeds the requirements to be a U.S.P. Class B individual unit-dose container." Our first problem with claims 11 and 12 is that there is nothing in the record to indicate exactly what the "requirements" to be a U.S.P. Class A or Class B individual unit-dose container are and how they would differ from one another. As for the examiner's rejection of these claims under 35 U.S.C. § 102(b) based on either Allers or Edwards, and the rejection thereof under 35 U.S.C. § 103(a) based on Allers alone, we find nothing in either of the applied patents that addresses U.S.P. Class A or Class B individual unit-dose containers and find the examiner's

attempt on pages 3 and 4 of the answer to treat such limitations to be wholly unavailing, since the examiner appears to merely read those limitations out of the claims. On remand, the examiner should provide an explanation of exactly what these limitations mean in the context of claims 11 and 12 on appeal, or direct appellant to do so, and then treat all of the limitations in the claims if a rejection thereof is appropriate.

5. In the rejection of claims 1, 3 through 14, 16 and 17 under 35 U.S.C. § 102(b) based on Edwards found on pages 4 and 5 of the answer, the examiner has repeatedly referenced elements of "Allers et al" in explaining this rejection, instead of pointing to elements or teachings in the Edwards patent to support the rejection. Thus, we remand for clarification of this rejection, and for the examiner to point to appropriate portions of the Edwards patent which are thought to be anticipatory of the claimed subject matter.

This application, by virtue of its "special" status, requires immediate action, see MPEP § 708.01 (item D), Eighth Edition, Aug. 2001. It is important that the Board of Patent

Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

REMAND TO THE EXAMINER

NEAL E. ABRAMS)
Administrative Patent Judge)
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)
)
)
CHARLES E. FRANKFORT) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES
)
)
)
LAWRENCE J. STAAB)
Administrative Patent Judge)

CEF/lbg

Appeal No. 2004-0220
Application No. 09/734,196

JOHN H. THOMAS, P.C.
1561 EAST MAIN STREET
RICHMOND, VA 23219

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jesse Kim
1198 Morrill Court
San Jose CA 95132

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OFFICE OF PETITIONS

In re Application of
Kim
Application No. 09/734,278
Filed: December 10, 2000
Title of Invention: Universal Three-Dimensional Graphics View For Resource Constrained Mobile Computers

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed August 30, 2006, to revive the above-identified application.

The petition is **dismissed**.

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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed July 16, 2002. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on February 26, 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 Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (3). 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 delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The application has been abandoned for over three years from the mailing date of the Notice of Abandonment as such petitioner must an additional information regarding the delay.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

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Jesse Kim
1198 Morrill Court
San Jose CA 95132

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OFFICE OF PETITIONS

In re Application of :
Kim :
Application No. 09/734,278 : DECISION ON PETITION
Filed: December 10, 2000 :
Title of Invention: Universal :
Three-Dimensional Graphics :
View For Resource Constrained
Mobile Computers

This is a decision on the renewed petition under 37 CFR 1.137(b) filed March 16, 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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed July 16, 2002. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on February 26, 2003. A petition under 37 CFR 1.137(b) was dismissed on March 2, 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(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 Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (4 years before the first petition was filed) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 17, 2002. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as there was no counsel of record at the time of abandonment, inventor Kim should explain why this application became abandoned while it was under their control and what efforts applicant made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s)and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp.,

2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at and the

responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and.
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street

Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

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San Jose CA 95132

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OFFICE OF PETITIONS

In re Application of :
Kim :
Application No. 09/734,278 : DECISION ON PETITION
Filed: December 10, 2000 :
Title of Invention: Universal :
Three-Dimensional Graphics :
View For Resource Constrained
Mobile Computers

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OFFICE OF PETITIONS

This is a decision on the renewed petition under 37 CFR 1.137(b) filed March 16, 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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed July 16, 2002. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on February 26, 2003. A petition under 37 CFR 1.137(b) was dismissed on March 2, 2007.

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There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (4 years before the first petition was filed) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 17, 2002. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as there was no counsel of record at the time of abandonment, inventor Kim should explain why this application became abandoned while it was under their control and what efforts applicant made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s)and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp.,

2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at and the

responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and.
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street

Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Bao Tran
Tran & Associates
6768 Meadow Vista Court
San Jose, CA 95135

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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Jesse Kim
1198 Morrill Court
San Jose CA 95132

COPY MAILED

MAY 13 2008

In re Application of
Kim
Application No. 09/734,278
Filed: December 10, 2000
Title of Invention: Universal Three-Dimensional Graphics View For Resource Constrained Mobile Computers

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 31, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed July 16, 2002. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on February 26, 2003. Petitions under 37 CFR 1.137(b) were dismissed on March 2, 2007 and December 19, 2007.

This petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750.00; and (3) a statement of unintentional delay.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2675 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Bao Tran
Tran & Associates
6768 Meadow Vista Court
San Jose, CA 95135

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 4, 2005

Donald M. Hill Jr.
Alston & Bird
Bank of America Plaza
101 South Tryon St., Suite 4000
Charlotte, NC 28280-4000

In re Application of:
Gustavsson et al
Serial No.: 09/734,310 On Petition
Filing Date: December 11, 2000
For: PRESS DEVICE HAVING AN EXTENDED PRESS NIP FOR PRESSING OF A TRAVELLING PAPERBOARD WEB, AND PROCEDURE FOR CONTROLLING THE PRESSURE CURVE IN MACHINE DIRECTION BY SUCH PRESS NIP

In response to the petition received by fax on April 12, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed February 5, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned April 6, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts of Nonprovisional Application mailed February 5, 2001.

Enclosed is a new Notice to File Missing Parts of Nonprovisional Application Papers giving counsel 2 months from the date of the notice to respond.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

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

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)
6,624,426	2003-09-23	09/734,409	2000-12-11	00249/TL

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	/thomas h. ham/	Date (YYYY-MM-DD)	2008-01-17
Name	Thomas H. Ham	Registration Number	43654

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6624426
Issue Date: September 23,2003
Application No. 09734409
Filed: December 11,2000
Attorney Docket No. 00249/TL

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Jerome B. Zeldis :
Application No. 09/734,460 : DECISION ON PETITION
Filed: December 11, 2000 :
Attorney Docket No. 9516-018 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application. In view of the statement that the deposit account contained sufficient funds to charge the issue fee at the time of submission of the Part B - Fee(s) Transmittal Form, the petition is also being treated as one requesting withdrawal of the holding of abandonment under 37 CFR 1.181.

The petition treated under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED.**

The petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before February 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 25, 2005. Accordingly, the date of abandonment of this application is February 28, 2006.

DISCUSSION OF PETITION UNDER 37 CFR 1.181

The petition states that the attorney of record was informed by Examiner Azpuru that there were insufficient funds in the Jones Day deposit account 50-3013 to charge the issue fee. This fact was also stated as the reason in the Notice of Abandonment faxed to him by Examiner Azpuru. However, petitioner states that, on January 10, 2006, at the time of submission of the Part B - Fee(s) Transmittal Form, there was a balance of over $500,000 in the Jones Day deposit account. In support of this statement, petitioner has submitted a copy of the Jones Day deposit account, which does in fact indicate a balance of over $500,000.

In reviewing the Part B - Fee(s) Transmittal form submitted on January 10, 2006, it is noted that the deposit account number was

omitted therefrom. Further, the file record does not contain an authorization, which can be construed as an authorization to charge the issue fee or a general authorization to charge any fees due during the pendency of the application. The record fails to disclose that the Office at any time attempted to charge the issue fee. Therefore, this application became abandoned for failure to supply the deposit account number to charge the issue fee within the time for payment thereof.

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The rule at 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.

Notice is made of the loss of entitlement to large entity status under 37 CFR 1.27(g)(2). Office records have been changed to reflect that this application 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 notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions