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)
6435250	2002-08-20	09797654	2001-03-05	00-1011

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

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/Marc Pichik/	Date (YYYY-MM-DD)	2008-07-31
Name	Marc Pichik		
Patentee 2		Remove	
Signature	/Christy Tvrdik/	Date (YYYY-MM-DD)	2008-07-31
Name	Christy Tvrdik		
Additional Patentees may be generated within this form by selecting the Add Button		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6435250
Issue Date: August 20,2002
Application No. 09797654
Filed: March 5,2001
Attorney Docket No. 00-1011

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

This is a decision on the electronic petition, filed August 15,2008 ,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 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

MAILED

JUL 2 8 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In Re Application:
IWAMURA, KEIICHI
Appl No. **09/797,717**
Filed: March 5, 2001
Attorney Docket No. **862.C2141**

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

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

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 David Moore at 571-272-7437.

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, South Tower, Room 08C15
Supervisory Correspondence Clerk, South Tower, Room 08C15

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Paper No. 18

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

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Fumimaro Takaku et al
Application No. 09/797,727
Filed: March 1, 2001
Attorney Docket No. SALK1150-3 (088802-0304)

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 18, 2003, 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 application data sheet submitted 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;[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.

The instant pending application was filed on March 1, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

---

[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 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). Also, the reference to the prior-filed nonprovisional applications 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 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 Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1646 for 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
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

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WASHINGTON, D.C. 20231
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#3
10/4/02

OCT -7 2002

J. Nicholas Gross, Attorney at Law
Suite 240
1385 Mission Street
San Francisco, Ca 94103

Paper No. 3

In re Application of:
Ming-Kang LIU
Application No. 09/797,755
Filed: March 1, 2001
For: DATA OBJECT ARCHITECTURE AND METHOD FOR XDSL ASIC PROCESSOR

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 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.**

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

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Paper No. 8

MAIL

JUN 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

J. Nicholas Gross
Attorney At Law
725 Duboce Ave.
San Francisco, CA 94117

In re Application of:
Liu
Application No. 09/797,778
Filed: March 1, 2001
For: xDSL COMMUNICATIONS SYSTEMS USING SHARED/MULTI-FUNCTION TASK BLOCKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation Under 37 CFR 1.36 and 10.40(c) filed June 5, 2002.

A Power of Attorney Under 37 CFR 1.36 was filed on July 16,2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P. as the attorneys of record of the instant application. The Power Of Attorney of July 16, 2003, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

James R. Matthews

ZM Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

cc: FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 2005-3315

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

J. NICHOLAS GROSS, ESQ.
1385 MISSION STREET
SUITE 240
SAN FRANCISCO, CA 94103

COPY MAILED

SEP 1 4 2001

OFFICE OF PETITIONS

In re Application of
Liu
Application No. 09/797,782
Filed: March 1, 2001
Attorney Docket No. ITEX 2001-5

DECISION GRANTING
PETITION

This is a decision on the petition filed on June 18, 2001, in effect requesting that the Notice of Omitted Items in a Nonprovisional Application ("Notices"), mailed on May 3, 2001 for the above-identified application, be withdrawn.

The petition is **GRANTED**.

The application was filed on March 1, 2001. However, on May 3, 2001, the Initial Patent Examination Division mailed the Notice stating that Figures 2B, 3B, 5A, 5B, 5C, 5D, 6, 7A, and 7B described in the specification appeared to have been omitted from the filed application.

In response, the present petition was filed wherein Petitioner contends that 13 sheets of drawings including the allegedly omitted figures were filed with the other application papers on March 1, 2001.

The 13 sheets of drawings filed on March 1, 2001 which contain, *inter alia*, Figures 2B, 3B, 5A-5D, 6, and 7A-7B, have been located in the Office file for this application. The petition is thus granted. The Notices mailed on May 3, 2001 is hereby withdrawn.

The $130 petition fee has been credited to Deposit Account No. 50-1244 as authorized in the present petition.

The application is being returned to the Initial Patent Examination Division for further processing with a filing date of March 1, 2001, using the drawings filed on that date.

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

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

#11
7/1/02

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JUL 1 1 2002

Paper No. 11

J. Nicholas Gross, Attorney at Law
Suite 240
1385 Mission Street
San Francisco, CA 94103

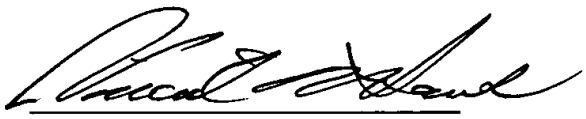
In re Application of: Ming-Kang Liu)
Application No. 09/797,782)
Filed: March 1, 2002) **DECISION ON REQUEST FOR**
For: xDSL SYMBOL PROCESSOR &) **WITHDRAWAL AS ATTORNEY**
METHOD OF OPERATING SAME)

This is a decision on the Request To Withdraw from Representation filed May 31, 2002 and the Supplemental Request To Withdraw filed June 26, 2002.

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

The request is **GRANTED**.

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



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

cc: Jim Williams, Chief Financial Officer
Integrated Telecom Express, Inc.
400 Race Street
San Jose, CA 95126

#7
7/1/02

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JUL 7 2002

Paper No. 7

J. Nicholas Gross, Attorney at Law
Suite 240
1385 Mission Street
San Francisco, CA 94103

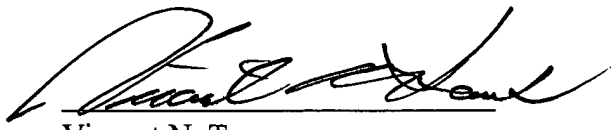
In re Application of: Ming-Kang Liu)
Application No. 09/797,789)
Filed: March, 1, 2001)
For: SYSTEM AND METHOD FOR INTERNAL OPERATION OF MULTIPLE-PORT XDSL COMMUNICATIONS SYSTEMS) **DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed May 31, 2002 and the Supplemental Request To Withdraw filed June 26, 2002.

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

The request is **GRANTED**.

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



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

cc: Jim Williams, Chief Financial Officer
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400 Race Street
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Paper No. 6

J. Nicholas Gross, Attorney at Law
Suite 240
1385 Mission Street
San Francisco, CA 94103

AUG 28 2002

In re Application of
Ming-Kang Liu
Application No. 09/797,793
Filed: March 1, 2001
Attorney Docket No. ITEX 2001-4

DECISION ON REQUEST TO WITHDRAW FROM RECORD

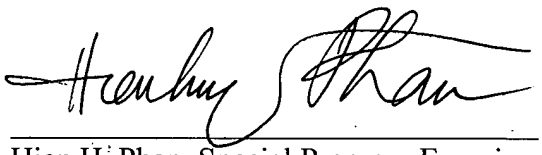
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 25, 2002.

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 request was signed by J. Nicholas Gross for himself.

The request is APPROVED

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.



Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Optical and Electrical
Systems and Components

cc: Jim Williams, CFO
Integrated Telecom Express, Inc.
400 Race Street
San Jose, CA. 95126

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DEC -7 2005

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Paul F. Neils
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PPLC
2100 Pennsylvania Ave, N.W.
Washington DC 20037

In re Application of: IDAKA	:
Appl. No.: 09/797,799	: DECISION ON PETITION
Filed: March 5, 2001	:
For: REMOTE, CENTRAL MONITORING SYSTEM FOR GAME MACHINES	:

This is a decision on the petition filed on May 23, 2005 by which petitioner requests withdrawal of a holding of abandonment for failure to file a Notice of Appeal prior to or with the Brief of May 20, 2004. 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 for failure to file a Notice of Appeal prior to or with the Brief of May 20, 2004 because a proper and timely Notice of Appeal and Petition for Extension of Time were in fact filed on March 24, 2004. Petitioner supports his allegation by furnishing a copy of the Notice of Appeal, a copy of the Petition for one month Extension of Time, and a copy of a post card receipt for these papers showing that they were actually received in the office on March 24, 2004.

Review of office records show that while no copy of said papers appears present in the Image File Wrapper (IFW) system and no entry exists in the PALM system, petitioner's deposit account was charged for a one month extension of time and Notice of Appeal on March 24, 2004.

The evidence furnished by petitioner, supplemented by records of office fee charges, clearly shows that this application is not abandoned for failure to file a Notice of Appeal prior to or with the Brief of May 20, 2004, as the papers in question were filed March 20, 2004. 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 of Technology Center 3700 for endorsement of the copies of the Notice of Appeal and the Petition for one month Extension of Time as being received on March 24, 2004 in both the IFW and PALM systems. The application will then be forwarded to the examiner of record for consideration of the Brief on Appeal.

PETITION GRANTED

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

Paper No. 9

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Charles V. Tomonto :
Application No. 09/797,815 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. CRD-914 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 18, 2003.

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

The application file is being forwarded to Technology Center AU 1763.

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
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 12

Audley A. Ciamporcero Jr.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
Charles V. Tomonto
Application No. 09/797,815
Filed: March 2, 2001
Attorney Docket No. CRD-914

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed August 22, 2003, which set a period for reply of One Month (1) 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 September 23, 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 1763 for further processing.

Latrice Bond

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

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of :
David C. Majercak :
Application No. 09/797,816 : DECISION ON PETITION
Filed: March 2, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. CRD-916 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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 nonprovisional application was filed on March 2, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/272,696, which

was filed on March 1, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/272,696 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 3738 for appropriate action on the amendment submitted October 4, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/272,696.

Any inquiries concerning this decision may be directed to petitions attorney Edward Tannouse at (571)272-3228.

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

Paper No. 9

PILLSBURY MADISON & SUTRO LLP,
INTELLECTUAL PROPERTY GROUP,
NINTH FLOOR, EAST TOWER
1100 NEW YORK AVENUE, N.W.,
WASHINGTON , DC 20005-3918

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FEB 5 2002

OFFICE OF PETITIONS

In re Application of
Abe et al.
Application No. 09/797,857
Filed: March 5, 2001
Attorney Docket No. P 0277999 S
Titile: SYNTHESIZED SILICA GLASS OPTICAL MEMBER AND METHOD FOR MANUFACTURING THE SAME

DECISION GRANTING PETITION

This is a decision on the petition filed October 9, 2001, requesting that the above-identified application be accorded a filing date of March 5, 2001, rather than the presently accorded filing date of March 3, 2001.

Petitioners request the later filing date on the basis that the application was hand-carried to and deposited in the USPTO on March 5, 2001. In support, the petition is accompanied by a copy of applicants' postcard receipt showing a Mail Room date stamp of March 5, 2001.

In view of the above, the application is entitled to a filing date of March 5, 2001. The request is granted. No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination for mailing of a corrected filing receipt and

correction of PTO records to show the filing date of the application as March 5, 2001, not March 3, 2001.

Any inquiries related 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/06

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/797858** Patent No.: **7060497**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The amendments are directed to the Examiner's amendment that appears to not have been entered.

SPE 1633 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/18/06

Paper No.: —

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/797899 Patent No.: 6953721 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**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

2814
Art Unit

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Commissioner for Patents
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Paper No. ____

FISH & RICHARDSON PC
1425 K STREET NW
11TH FLOOR
WASHINGTON DC 20005-3500

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AUG 25 2004

OFFICE OF PETITIONS

In re Application of :
Tatsuya Ohori et al :
Application No. 09/797,913 : DECISION GRANTING PETITION
Filed: March 1, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977/123003 :

This is a decision on the petition, filed August 24, 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 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).*

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11TH FLOOR
WASHINGTON, DC 20005-3500

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Tatsuya Ohori et al :
Application No. 09/797,913 : DECISION GRANTING PETITION
Filed: March 1, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977/123003 :

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).*

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

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OFFICE OF PETITIONS

In re Patent No. 6,982,768 :
Issue Date: January 3, 2006 :
Application No. 09/797,913 : ON PETITION
Filed: March 1, 2001 :
Attorney Docket No. 07977/123003/US3261D1D1

This is a decision on the petition filed March 5, 2007, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Karl-Heinz Schuster et al :
Application No. 09/797,961 : DECISION GRANTING PETITION
Filed: March 5, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17979-009001 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 11

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Martin-Lomas, et al. :
Application No. 09/798,005 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 0380-P02182US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed September 16, 2001, which set a one (1) month period for response. Accordingly, this application became abandoned on October 17, 2001. A Notice of Abandonment was mailed on March 26, 2003.

The file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JANET M. MACLEOD
DORSEY AND WHITNEY, LLP
250 PARK AVENUE
NEW YORK, NY 10177

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DEC 27 2006

OFFICE OF PETITIONS

In re Application of :
John Sigurd Svendsen, et al. :
Application No. 09/798,026 : ON PETITION
Filed: February 27, 2001 :
Attorney Docket No. 14229 :

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

The petition is GRANTED.

The application became abandoned on July 5, 2006. This decision precedes the mailing of a Notice of Abandonment. On October 27, 2006, the present petition was filed, including a Notice of Appeal and a 3-month petition for extension of time.

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. Since, no extension of time fees are due on a petition for revival, the $510 extension fees are refundable.

Counsel should note that she is not an authorized user of the deposit account identified on the Notice of Appeal; therefore, the $250 fee for the Notice of Appeal could not be charged. Accordingly, the Notice of Appeal fee will be subtracted from the $510 extension fees paid by mistake, leaving $260 of the extension fees to be refunded. ($510 – 250 = $260) The $260 will be refunded in due course in the form of a Treasury Check.

The 2-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

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

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 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.

This application is being referred to Technology Center AU 1654 for further consideration.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JANET M. MACLEOD
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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

Paper No.

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Patent of Fuhrer, et al	:
Patent No. 6,897,437	: DECISION ON REQUEST
Issue date: May 24, 2005	: FOR RECONSIDERATION OF
Application No. 09/798,030	: PATENT TERM ADJUSTMENT
Filed: February 28, 2001	: and
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
P02008US0/10021441	: CERTIFICATE OF CORRECTION
	:

This is in response to the "Request for Reconsideration of Patent Term Adjustment" filed May 16, 2005. Patentees request that the Patent Term Adjustment indicated in the issued Patent be corrected from three hundred and eight (308) days to four hundred and twenty-eight (428) days.

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

The Patent Term Adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **four hundred and twenty-eight (428) days.**

On May 24, 2005, the above-identified application matured into the U.S. Patent No. 6,897,437. The instant request for reconsideration was timely filed on May 16, 2005 within 2 months of the issue date of the patent. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of three hundred and eight (308) days. The patentees state that the initial determination of patent term adjustment should not have been reduced by one hundred and twenty (120) days for the submission after the mailing of the notice of allowance of an "Interview Summary and Reply to Office Action dated August 18, 2004" (Interview Summary) on November 10, 2004. The patentees assert that this delay should not have been charged to applicants

because a response with an Interview Summary was expressly required by the Examiner in the notice of allowance and answered by the patentees in a timely fashion. Accordingly, the patentees request correction of the patent term reduction incurred due to the filing of the Interview Summary from one hundred and twenty (120) days to zero (0) days.

The patentees' argument is well taken, and the request for Patent Term Adjustment is granted. On October 21, 2004 the Examiner conducted a telephonic interview with the applicants as a result of which the Notice of Allowance was mailed on October 25, 2004. In the Notice of Allowance, the Examiner required the patentees to file the Statement of the Substance of the Interview together with a Formal Reply to the last office action. The applicants were given one month from the Interview date to file the Statement. In accordance with the Examiner's request, the patentees filed the Interview Summary, containing the Statement of the Substance of the Interview, and a Reply to the last office action. Therefore, the patentees' response should not have been treated as a "failure to engage" under 37 C.F.R. § 1.704(c)(10). Consequently, the patentee should not have received a reduction of one hundred and twenty (120) days due to the filing of the Interview Summary on November 10, 2004. The reduction should be corrected to zero (0) days.

The patentees do not dispute the Office's determination of a three (3) day patent term reduction in connection with the payment of the issue fee under § 1.704(b).

In view of the above, the correct determination of the Patent Term Adjustment at the time of the Patent Issue is four hundred and twenty-eight (428) days.

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

The file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended by one hundred and twenty (120) days.

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

Kery A. Fries

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES 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 : October 16, 2007

Patent No. :6,639,213
Inventor(s) :Kent J. Gillig et al.
Issued :October 28, 2003
Title :PERIODIC FIELD FOCUSING ION MOBILITY SPECTROMETER
Docket No. :PO2122USO/1010400

Re: Request for Certificate of Correction

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

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, with a request 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 A 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Gino Catena
FULBRIGHT & JAWORSKI L.L.P.
FULBRIGHT TOWER
1301 McKinney,
STE 5100
HOUTON, TEXAS 77010-3095

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

#6
7/1/02

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 1 2002

Paper No. 6

J. Nicholas Gross, Attorney at Law
Suite 240
1385 Mission Street
San Francisco, CA 94103

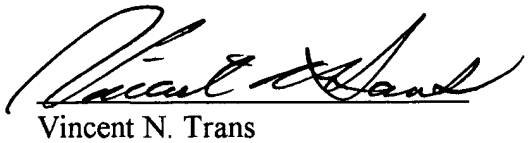
In re Application of: Ming-Kang Liu)
Application No. 09/798,054)
Filed: March 1, 2001) **DECISION ON REQUEST FOR**
For: LOGICAL PIPELINE FOR DATA) **WITHDRAWAL AS ATTORNEY**
COMMUNICATIONS SYSTEM)

This is a decision on the Request To Withdraw from Representation filed May 31, 2002 and the Supplemental Request To Withdraw filed June 26, 2002.

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

The request is **GRANTED**.

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



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

cc: Jim Williams, Chief Financial Officer
Integrated Telecom Express, Inc.
400 Race Street
San Jose, CA 95126

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 10-01

Paper No. 6

DOUGLAS M. KUBEHL, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

OCT 0 1 2001

OFFICE OF PETITIONS

In re Application of	:	
John D. Garcia	:	
Application No. 09/798,094	:	DECISION REFUSING STATUS
Filed: 1 March, 2000	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 020533.0325	:	

This is in response to the petition filed under 37 CFR 1.47(b) on 16 July, 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 (b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 1 March, 2001, without an executed oath or declaration.

Accordingly, on 17 April, 2001, the Office of Initial Patent Examination (OIPE) sent a "Notice to File Missing Parts of Reissue Application" requiring an executed oath or declaration, and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 16 July, 2001, petitioners submitted (a) the petition fee; (b) a declaration signed by Clyde Musgrave, Vice President of Corporate Development of Efficient Networks, Inc., the former employer of the inventor on behalf of the non-signing inventor, John D. Garcia; (c) a declaration of facts by Clyde Musgrave; (d) a request and payement of the fee for a one (1) month extension of the time for reply to the "Notice", and (e) the late filing surcharge.

Petitioners assert that a draft of the application was sent to the inventor, but that the inventor refused to accept the mailing and sign and return the application. Petitioners also assert that the inventor orally refused to sign the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after being sent or given a copy of the application;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

The present petition lacks items (1), (2), and (6).

In regards to item (1), petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to each non-signing inventor for review.[1] Petitioner should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details. Petitioners have not provided a copy of the cover letters transmitting the application papers to the inventor. Additionally, the declaration of Clyde Musgrave was not made by the person who actually sent the application papers to the inventor. Additionally, petitioner has not stated whether the "draft copy" of the application sent to the inventor was the application that was filed in the USPTO. If the application sent to the inventors was not the application as filed, petitioner must send or give a copy of the application (specification

[1] MPEP 409.03(d).

including claims and drawings, if any) as filed to the inventor for review. If the application sent to the inventors was the application filed on 1 March, 2001, petitioner should so state in any renewed petition.

If there is a written refusal to sign, petitioners should submit a copy of the written refusal with any renewed petition. If a refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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. The declaration does not state that the person making the oath or declaration believes the named inventors to be the original and first inventors of the subject matter which is claimed and for which a patent is sought.[2] Rather, the declaration simply states that the signer believes that John D. Garcia is an inventor of the subject matter which is claimed and for which a patent is sought. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required.[3]

In regards to item (6), petitioner must establish that filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[4]

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

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[2] 37 CFR 1.63(b)(2).

[3] See MPEP 409.03(b).

[4] MPEP 409.03(g).

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

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 10

DOUGLAS M. KUBEHL, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

DEC 1 4 2001

OFFICE OF PETITIONS

In re Application of	:
John D. Garcia	:
Application No. 09/798,094	:DECISION ACCORDING STATUS
Filed: 1 March, 2001	:UNDER 37 CFR 1.47(b)
Attorney Docket No. 020533.0325	:

This is in response to the renewed petition under 37 CFR 1.47(b), filed on 28 November, 2001.

The petition is granted.

Petitioner has shown that a copy of the application was mailed to the non-signing inventor on two occasions. Both copies of the application, however, were returned as unclaimed. Additionally, petitioners have shown proprietary interest with an employment agreement and has made the required showing of irreparable damage. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

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(c), this Office will forward notice of this application's filing to the non-signing inventor. 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 further processing.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.

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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

John D. Garcia
4529 Stonewall, #125
Greenville, TX 75041

COPY MAILED

DEC 1 4 2001

OFFICE OF PETITIONS

In re Application of
John D. Garcia
Application No. 09/798,094
Filed: 1 March, 2001
For: METHOD AND APPARATUS FOR DYNAMICALLY MATCHING IMPEDANCE

Dear Mr. Garcia:

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 Petitions Attorney Douglas I. Wood at 703 308-6918. 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 Douglas I. Wood

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

DOUGLAS M. KUBEHL, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Jonathan Dzoba, et al. :
Application No. 09/798,095 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. PF107D3 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 3, 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 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 and publication fees; and (3) an adequate statement of unintentional delay. 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N

DATE : 6/30/04

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6709874

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

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 t patent read as shown in the certificate of correction? No new matter should be introduced, nor s scope or meaning of the claims be changed.

Please see COCIN dated 4-05-04 in the table of contents in IFW.

Diana T. Rose
Certificates of Correction Br

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 a

☐ Denied — State the reasons for denial below.

Comments:

ok to enter

DAR

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 285
A

U.S. DEPARTMENT OF COMMERCE Patent and

09/728,101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No

DATE : 6/30/04

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6709874

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

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 t patent read as shown in the certificate of correction? No new matter should be introduced, nor s scope or meaning of the claims be changed.

Please see COCIN dated 4-05-04 in the table of contents in IFW.

Diana T. Rose
Certificates of Correction Br

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 a**

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

Comments:

OK to enter

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 286
A

U.S. DEPARTMENT OF COMMERCE Patent and

UNITED STATES 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

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
Leipold, Dirk
Application No. 09/798,106
Filed: March 2, 2001
Attorney Docket No. TI-30692

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 13, 2003. A Notice of Abandonment was mailed on August 26, 2003.

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

Petitioner's deposit account will be charged $1330.00 for the petition fee as authorized.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Dirk Leipold :
Application No. 09/798,106 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. TI-30692 :

This is a decision on the petition, filed December 8, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

The application was held abandoned on March 7, 2006, for failure to file a response to the Final Office Action mailed October 5, 2005. No extensions of time having been filed prior to the expiration of the maximum period obtainable under 37 CFR 1.136, this application became abandoned. Accordingly, a Notice of Abandonment was mailed October 12, 2006 indicating that a response to the Final Office Action had not been filed.

Petitioner asserts that a Notice of Appeal was filed on January 5, 2006 and that on March 6, 2006, an Appeal Brief was timely filed.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal and appropriate fees, were timely filed on January 5, 2006. Further, while a review of the file does not reveal that the Appeal Brief was timely filed after the filing of the Notice of Appeal on January 5, 2006, petitioner presents evidence in the form of a seven page Appeal Brief which bears a certificate of facsimile transmission dated March 6, 2006, pursuant to 37 CFR 1.8, and was acknowledged by the U.S. Patent and Trademark Office in an Auto-Reply Facsimile Transmission

Accordingly, the response was timely and the Notice of Abandonment mailed October 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

The Notice of Appeal filed January 5, 2006 and the Appeal Brief filed March 6, 2006 are both being referred to Technology Center 2811.

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

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Dirk Leipold	: DECISION ON REQUEST FOR
Patent Number	: 7575969	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/798,106	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **393** 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
Washington, D.C. 20231
www.uspto.gov

J. NICHOLAS GROSS, ATTORNEY AT LAW
SUITE 240
1385 MISSION STREET
SAN FRANCISCO, CA 94103

Paper No. MAIL

JUL 18 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Ming-Kang Liu
Application No.: 09/798,113
Filed: March 1, 2001
For: PHYSICAL MEDIUM DEPENDENT SUB-SYSTEM WITH SHARED RESOURCES FOR MULTIPORT XDSL SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed May 31, 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: J. Nicholas Gross.

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: Jim williams, Chief Financial Officer
Integrated Telecom Express, Inc.
400 Race Street
San Jose, CA 95126

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/20/06

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/798128 Patent No.: 6608037

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Corrects errors made during printing (all but one of the corrections) and corrects a grammatical error in original claim 8.

SPE 1633 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED

SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Schwinn, et al.
Application No. 09/798,132
Filed: March 2, 2001
Attorney Docket No. RD7530USDIV

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 26, 2002, to accord the above-identified application a filing date of March 2, 2001.

On March 2, 2001, the application was deposited.

On June 19, 2002, the Office of Initial Patent Examination mailed a Notice stating that, drawings were missing and that a filing date would be accorded upon receipt of the missing drawings. It is noted that the specification references Figures 1-7, but no figures were filed on March 2, 2001.

The present petition was filed in response to the June 19, 2002 Notice.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. The Utility Patent Application Transmittal sheet filed on March 2, 2001 incorporated by reference the entire disclosure of parent application No. 09/428,327. Petitioners have supplied a certified copy of parent application No. 09/428, 327 and request that Figures 1-7 be taken from the certified copy and entered into the above-identified application.

Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered. See MPEP 201.06(c).

Based on the incorporation by reference, it appears that the drawings were present in the Office on March 2, 2001, albeit in the file of another application, i.e., application No. 09/428,327. Therefore, on petition, the application may be accorded the requested filing date of March 2, 2001 .

In view of the above, the petition to accord a March 2, 2001 is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

The "Notice" mailed June 19, 2002, was correct in advising applicants that drawings appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 2, 2001**, using the application papers filed on March 2, 2001 and the copy of the drawings filed on August 26, 2002 in the certified copy of application No. 09/428,327. The amendment filed August 26, 2002 will be entered. A corrected filing receipt will be mailed in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth C. Cox, et al. :
Application No. 09/798,179 : DECISION ON PETITION
Filed: March 2, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. Cox 10223

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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 reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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 petition lacks item (3) noted above.

Petitioner has not provided a statement of unintentional delay as required by the rule. Until such statement is received, the claim for priority cannot be accepted.

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

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

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1100 SUPERIOR AVENUE
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CLEVELAND, OH 44114-2518

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of
Kenneth C. Cox et al
Application No. 09/798,179
Filed: March 2, 2001
Attorney Docket No. Cox 10223

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(6)
: AND 37 CFR 1.183

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/200,067, filed April 27, 2000 or, alternatively, under 37 CFR 1.183 requesting waiver of that part of 37 CFR 1.78(a)(6)(iii), which requires 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 petition under 37 CFR 1.78(a)(6) is **DISMISSED**.

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

Background

The previous petition under 37 CFR 1.78(a)(6) was dismissed in a decision mailed August 6, 2005 because it lacked the statement required by 37 CFR 1.78(a)(6)(iii).

Arguments

Petitioner argues that the submission of a statement of unintentional delay would not be applicable in this case. More specifically, petitioner states that the claim of priority to the provisional application (No. 60/200,067) was made upon filing of the present application and, as such, there was no delay between the time when the claim was due and the filing of the claim. Petitioner admits that, while the claim of priority was not originally placed in the first paragraph of the application as required by the rules, the claim was indeed made upon filing; i.e., on page 3 of the specification. Petitioner cites the MPEP at § 201.11(V), which states:

> [i]f, however, an applicant includes a benefit claim elsewhere in the application and not in the manner specified in 37 CFR 1.78(a), and the claim is not recognized by the office as shown by its absence on the filing receipt (*e.g., if the benefit claim is in a part of the application where benefit claims*

> *are not conventionally located, such as the body of the specification)*, the Office will require a petition and the surcharge under 37 CFR 1.17(t) to correct the benefit claim. [Emphasis added by petitioner.]

Petitioner argues that this section of the MPEP does not require that the petition include a statement of unintentional delay, but merely cites that a "petition" be filed. Further, petitioner argues that, in the situation addressed in this section of the MPEP and in the present situation, there was no unintentional delay since the benefit claim was actually made upon filing, although not in the manner specified. Therefore, in sum, the requirement in the decision of August 9, 2005 for a statement of unintentional delay was improper.

Review of Application on Filing

A review of the application, as filed discloses that, in the specification, at the bottom of page 3, the following sentence appears:

> The applicants claim priority under 35 U.S.C. 119(e) for provisional application entitled "A Web-Based Approach To Interactive Visualization In Context", filed on April 27, 2000, attorney docket No. 10-2-2-3.

Although the provisional application was filed on April 27, 2000, the claim fails to state the application number. A claim for benefit was also made in the declaration on filing, but likewise did not state the application number of the provisional application. Because the application number of the provisional application was not supplied, the Office did not recognize this benefit claim and the application was published on October 24, 2002 without this benefit claim.

Applicable Statute, Rule and Regulation

35 U.S.C. § 119(e)(1) states:

> An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 353 of this title is filed not later than 12 months after the date on which the provisional application was filed and **if it contains or is amended to contain *a specific reference* to the provisional application**. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the ***specific reference*** to the

earlier filed provisional 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 subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application. [Emphasis supplied.]

37 CFR 1.78(a)(6) states:

If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(i) ***The reference required by 35 U.S.C. 119(e)*** and paragraph (a)(5) of this section to the prior-filed provisional 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 Director may require additional information where there is a question whether the delay was unintentional. [Emphasis added.]

37 CFR 1.78(a)(5)(i) states:

Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, ***identifying it by the provisional application number (consisting of series code and serial number*** [emphasis supplied.]

MPEP § 201.11(B), under subheading Reference to Prior Provisional Applications, states:

When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a

> statement such as "This application claims the benefit of U.S. Provisonal Application No. 60/—, filed —, *** should appear as the first sentence of the description or in an application data sheet.

Conclusion

As noted above, the application as filed, did not make the specific reference required by 35 U.S.C. § 119(e)(1) and 37 CFR 1.78(a)(5)(i), but only indicated that a benefit claim was being made to a provisional application filed on April 27, 2000. Further, the amendment specifically identifying the provisional application number was not submitted within the later of four months of the filing date of the present application or within sixteen months from the filing date of the prior-filed provisional application. Therefore, since the benefit claim was not made in the manner specified by the statute and by the rule (as recognized by petitioner), a petition under 37 CFR 1.78(a)(6) is required. One of the requirements of 37 CFR 1.78(a)(6) is that petitioner must submit a statement that "the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional." To date, petitioner has not submitted that statement. Accordingly, the petition must be dismissed.

Discussion of Petition under 37 CFR 1.183

Petitioner is requesting waiver under 37 CFR 1.183 of that part of 37 CFR 1.78(a)(6) which requires a statement that "the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional" since petitioner is of the belief that there was in fact no real delay in view of the presence of the benefit claim on the third page of the specification to a provisional application filed on April 27, 2000.

37 CFR 1.183 states that:

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

Opinion

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit the specific reference required by statute and by rule of the earlier application within the time period set forth in 37 CFR 1.78(a)(5)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183. *See* Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule). Rather, as petitioner failed to comply with the provisions of 37 CFR 1.78(a)(5)(i), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

Conclusion

In view of the above, the petition under 37 CFR 1.183 must be dismissed and the requirement for a statement of unintentional delay pursuant to the provisions of 37 CFR 1.78(a)(6)(iii) is still required. Failure to promptly submit this statement in a renewed petition under 37 CFR 1.78(a)(6) may be construed as intentional delay.

As authorized, the fee for the petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. 06-0308, which, effective November 22, 2004, is now $400.

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 the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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CLEVELAND, OH 44114-2518

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Kenneth C. Cox et al	:	
Application No. 09/798,179	:	DECISION ON PETITION
Filed: March 2, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10223	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/200,067, filed April 27, 2000.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The fee for the petition under 37 CFR 1.78(a)(6) was previously received on October 22, 2004. Accordingly, the second fee received with this petition is unnecessary and will be refunded to petitioner's credit card in due course.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2178 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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SUITE 1210
551 FIFTH AVENUE
NEW YORK, NY 10176

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APR 26 2006

OFFICE OF PETITIONS

In re Patent No. 6,584,839 :
Issue Date: July 1, 2003 :DECISION GRANTING PETITION
Application No. 09/798,228 :UNDER 37 CFR 1.137(b)
Filed: March 2, 2001 :
Attorney Docket No. 3190-36 :

This is a decision on the petition under 37 CFR 1.137(f), filed February 28, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

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

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on March 1, 2002. 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 applicant became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed 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 accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country 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 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,584,839 on July 1, 2003. Therefore, no further action being required, this patented file is being referred to Files Repository.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DEPARTMENT
233 S. WACKER DRIVE-SUITE 6600
CHICAGO IL 60606-6473

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OFFICE OF PETITIONS

In re Patent No. 6,681,142 :
Issue Date: January 20, 2004 :
Application No. 09/798,242 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. P01,0067 :

This is a decision on the petition filed July 30, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "**SIEMENS AG OESTERREICH**."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment (to correct the assignee's name) from SIEMENS AKTIENGESELLSCHAFT, AUSTRIA to SIEMENS AG OESTERREICH was recorded on April 1, 2009, **after the date of issuance of this patent**.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Maureen T. Cronin et al.	:	
Application No. 09/798,260	:	DECISION ON PETITION UNDER
Filed: March 1, 2001	:	37 C.F.R. §1.182
Attorney Docket No. 018547-015720US	:	
Title: ARRAYS OF NUCLEIC ACID PROBES FOR ANALYZING BIOTRANSFORMATION GENES	:	

This is a decision on the petition under 37 C.F.R. §1.182, filed March 14, 2006, requesting that the above-identified application be accorded a filing date of March 1, 2001.

The application was deposited on March 1, 2001. However, on March 1, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application - Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without pages forty-two, forty-three, and forty four of the specification. The notice set a two-month period for response.

On May 1, 2002, these missing pages were provided via the submission of a preliminary amendment. The preliminary amendment indicated that these pages were obtained from the

parent application, 08/778,794, the contents of which had been incorporated by reverence.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it indicates that the present application is a continuation of application 08/778,794, and this same Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference.

Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

As such, the application should have been accorded a filing date of March 1, 2001. Instead however, the present application was accorded a filing date of May 1, 2002 - the date on which the missing pages of the specification were provided.

Accordingly, the petition is **GRANTED.**

OIPE will be notified that the application should receive a filing date of March 1, 2001, using the original application papers filed on that date, as well as pages forty-two, forty-three, and forty four of the specification, provided on May 1, 2002.

The petition fee will be refunded to Petitioner's Deposit Account in due course.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
11400 BURNET ROAD, ZIP 4054
AUSTIN TX 78758

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Richard L. Arndt et al :
Application No. 09/798,296 : ON PETITION
Filed: March 1, 2001 :
Attorney Docket No. AUS9-2001-0072US1 :

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 September 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2179 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : October 28, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/798,296

Applicant(s) :Richard L. Arndt et al
Application No. :09/798,296
Filed :March 1, 2001

The above-identified application has been assigned Patent No. 6,816,173 and an issue date of November 9, 2004.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 9, 2004:

> "All reference to Patent No. 6,816,173 to Richard L. Arndt et al of Texas for VIRTUAL LOGICAL PARTITION TERMINAL appearing in the Official Gazette of November 9, 2004 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

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OFFICE OF PETITIONS

In re Application of :
Richard Louis Arndt, et al. :
Application No. 09/798,296 : ON PETITION
Filed: March 1, 2001 :
Attorney Docket No. AUS9-2001-0072US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 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 January 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 29, 2005.

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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RITA M. ROONEY
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210-2414

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
William P. Acker et al :
Application No. 09/798,314 : NOTICE
Filed: March 2, 2001 :
Attorney Docket No. 107044-0006

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Yasutomo Yamamoto et al :
Application No. 09/798,324 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 16869P017100 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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) 272-3208.

The examiner of Technology Center AU 2143 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-30-09 Paper No.: _____

TO SPE OF : ART UNIT 1769

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/793415 Patent No.: 6780461

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

FOR IFW FILES: Should Drawings be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Chris Young.
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1792
SPE **Art Unit**

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QUALCOMM INCORPORATED
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5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

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FEB 08 2005

OFFICE OF PETITIONS

FAX RECEIVED
CANCELLED
FEB 08 2005
OFFICE OF PETITIONS

In re Application of :
Morley et al. :
Application No. 09/798,361 : ON PETITION
Filed: 2 March, 2001 :
Attorney Docket No. 010212 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 15 November, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

---

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

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

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

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

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

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

This application became abandoned on 27 May, 2004, for failure to timely reply to the non-final Office action mailed on 26 February, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 September, 2004.

Although the petition filed on 15 November, 2004, appears to have been signed by registered patent attorney Robert B. Levy, who signed the amendment and fee transmittal form filed therewith, no typed or printed name, address, or registration number appears on the petition. As such, the petition is not properly signed and will not be treated on the merits. Petitioner should file a properly signed petition form. No additional fee is required.

It is noted that the address on the amendment accompanying the petition is different than the correspondence address. A courtesy copy of this decision will be sent to the address on the amendment. All future correspondence, however, will be sent solely to the address of record.

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

By mail: Mail Stop Petition
Commissioner for Patents
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 concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Patent Operations
Thomson Licensing Inc.
2 Independence Boulevard - Suite 2
Princeton NJ 08540

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Morley et al. :
Application No. 09/798,361 : ON PETITION
Filed: 2 March, 2001 :
Atty Docket No. 010212 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 17 March, 2005, to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

This application became abandoned on 27 May, 2004, for failure to timely reply to the non-final Office action mailed on 26 February, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 September, 2004. The petition filed on 15 November, 2004, was dismissed on 18 February, 2005.

It is noted that the address on the amendment accompanying the petition is different than the correspondence address. A courtesy copy of this decision will be sent to the address on the amendment. All future correspondence, however, will be sent solely to the address of record.

The amendment filed on 15 November, 2004, will be considered as the required reply.

The application will be referred to Technology Center 2851 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

cf: Patent Operations
Thomson Licensing Inc.
2 Independence Boulevard - Suite 2
Princeton NJ 08540

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Paper No. 11

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Jesse Hose et al :
Application No. 09/798,368 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 010214 :

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

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. See37 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 (571) 272-3220.

This application is being forwarded to Technology Center 2173.

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

cc: THOMSON LICENSING INC.
P.O. BOX 5312
PRINCETON, NJ 08543

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OFFICE OF PETITIONS

In re Application of :
Hose et al. :
Application No. 09/798,368 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 010214 :

This is a decision on a petition filed November 3, 2006, under the unintentional provisions of 37 CFR 1.137(b) 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 7, 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). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 8, 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 Request for Continued Examination (RCE) and 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.

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.

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 petition desires to receive future correspondence regarding this application, the

appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received to the contrary.

The request for change of correspondence address submitted November 3, 2006, is improper because it was not signed by an attorney or agent of record.

This application is being referred to Technology Center AU 2173 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

cc: ROBERT B. LEVY
THOMSON LICENSING LLC
PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543-5312

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)
6684633	2004-02-03	09798383	2001-04-27	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Marion B. Jett/	Date (YYYY-MM-DD)	2008-04-01
Name	Marion B. Jett		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6684633
Issue Date: February 3,2004
Application No. 09798383
Filed: April 27,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 1,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 1,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Hu et al. :
Application No. 09/798,404 : DECISION ON PETITION
Filed: March 2, 2001 :
Attorney Docket Number: :
MI22-1641 :

This is a decision on the petition under 37 CFR 1.78(a), filed August 6, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional Application no. 08/910,908.

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;
>
> **(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 on March 2, 2001, and was pending at the time of the 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). This amendment was filed with this petition on August 6, 2003. The petition includes payment of the surcharge under § 1.17(t). Petitioner states that the entire delay from the March 2, 2001 filing of the present application to the filing of the instant petition and claim for priority 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 application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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 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(s) 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(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), 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 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.

This application is being forwarded to Technology Center Art Unit 2818 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

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

Charles A. Pearson
Director
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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J.M. (MARK) GILBRETH
Gilbreth & Associates, PC
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OFFICE OF PETITIONS

In re Application of
Gregory S. Basarab
Application No. 09/798,423
Filed: March 2, 2001
Attorney Docket No. 23354/65D3

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed August 21, 2002, to revive the above-mentioned 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 on July 25, 2001, for failure to file a proper oath or declaration, remit the surcharge, and respond to the request to file page 85 of the specification that was missing as required by the Notice to File Missing Parts of Nonprovisional Application, which set a period for reply of two months from its mailing date. A Notice of Abandonment was mailed on July 17, 2002.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

The notice mailed May 24, 2001, required that file "[a] properly signed oath or declaration in compliance with 37 CFR 1.53, identifying the application by the above Application Number and Filing Date . . ." The declaration filed did not provide the identifiers required by the notice. With any renewed petition filed, petitioner must file a properly executed oath or declaration with the identifiers indicated.

Further, the notice indicates that page 85 of the specification appeared to have been missing. The notice indicated that, within the two month period prescribed, petitioner should either provide evidence that the missing page was filed, or provide the omitted page understanding that the filing date of the application will become the date the missing page is received. Petitioner did not entertain the notice's indication that page 85 of the specification was not filed. With any renewed petition filed, petitioner must provide a response to the indication of the notice that page 85 of the specification is missing.

The change of correspondence address, filed August 21, 2002, is noted and made of record.

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 facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

J.M. (Mark) Gilbreth
Gilbreth & Associates, PC
PO Box 2428
Bellaire, Texas 77402-2428

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Gregory S. Basarab :
Application No. 09/798,423 : DECISION ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 23354/65D3 :

This is a decision on the renewed petition under 37 CFR § 1.137(b), filed January 23, 2003, to revive the above-identified application.

The renewed petition is **granted**.

The application became abandoned on July 25, 2001, for failure to file a proper oath or declaration, remit the surcharge, and respond to the request to file page 85 of the specification that was missing as required by the Notice to File Missing Parts of Nonprovisional Application which set a period for reply of two months from its mailing date. A Notice of Abandonment was mailed on July 17, 2002. On August 21, 2002, a petition under 37 CFR 1.137(b) was filed, and was dismissed by a decision mailed October 23, 2002. On January 23, 2003, the instant renewed petition was filed, along with a request for an extension of time within the first month.

The declaration pursuant to 37 CFR 1.63, filed January 23, 2003, is noted and made of record. Petitioner's request to have the application as originally filed on March 2, 2001 accepted in the absence page 85 of the specification is noted and made of record.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO, IL 60601

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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of
Gregory S. Basarab, et al.
Application No. 09/798,423
Filed: March 2, 2001
Attorney Docket No. 23354/65D3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 9, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before February 6, 2006. A Notice of Abandonment was mailed on April 14, 2006. On November 9, 2006, the present petition was filed.

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

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LYNN G. FOSTER
602 EAST 300 SOUTH
SALT LAKE CITY, UT 84103

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JUN 06 2006

OFFICE OF PETITIONS

In re Application of :
James P. McCormick et al :
Application No. 09/798,426 : DECISION ON PETITION
Filed: March 2, 2001 : TO WITHDRAW
Attorney Docket No. 464-1-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 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 Lynn G. Foster, the sole attorney of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor James P. McCormick at the address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City, UT 84119

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

J.M.(MARK) GILBRETH
GILBRETH & ASSOCIATES PC
P.O. BOX 2428
BELLAIRE, TX 77402-2428

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SEP 13 2002

OFFICE OF PETITIONS

In re Application of	:	
Gregory Steven Basarab et al	:	
Application No. 09/798,428	:	ON PETITION
Filed: March 2, 2001	:	
Attorney Docket No. 23354/65D2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 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 June 5, 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 August 6, 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 on Initial Patent Examination.

Wan Laymon
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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ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

MAY 17 2005

TECHNOLOGY CENTER 3600

Altera Law Group, LLC
6500 City West Parkway
Suite 100
Minneapolis, MN 55344-7704

In re Application of
Heinrich Friederich, et al.
Application No. 09/798,442
Filed: March 2, 2001
For: LIGHT ALLOY THREAD-FORMING SCREW AND ITS PRODUCTION METHOD

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 8, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on November 17, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/rwg: 10/13/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Daniel F. Gealy et al :
Application No. 09/798,445 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 3403.1US (97-758.1) :

This is a decision on the petition, filed December 3, 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 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Daniel F. Gealy et al :
Application No. 09/798,445 :
Filed: March 2, 2001 :
Attorney Docket No. 3403.1US (97-758.1) :

ON PETITION

This is a decision on the petition, filed December 3, 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 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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MAR 3 1 2006

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Daniel Gealy et al :
Application No. 09/798,445 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 3403.1US(97-758.1) :

This is a decision on the petition, filed October 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 11, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

FAX TRANSMISSION

U.S. PATENT AND TRADEMARK OFFICE
Office of Petitions
Assistant Commissioner for Patents
Mail Stop Petitions
P O Box 1450
Alexandria, VA 22313-1450
(703) 305-8680
Fax: (703) 308-6916

To: Raymond N. Nimrod **Date:** July 22, 2003

Fax #: 312-408-0865 **Pages:** 3, including this cover sheet.

From: Frances Hicks
Office of Petitions

Subject: Application No. 09/798,453 Atty Dkt No. 31168

COMMENTS:

Attached is a copy of the decision granting the petition to withdraw from issue.

As noted in the decision and in a telephone message left you this morning, a claim for priority under 35 U.S.C. § 120 in an application filed on or after November 29, 2000 requires a petition under 37 CFR 1.78(a)(3) and fee of $1300; otherwise, the amendment to now insert a claim for priority is improper and cannot be entertained.

You may submit the petition under 37 CFR 1.78(a)(3) by facsimile to the above number and we will act on the petition as soon as the file is received in the Office of Petitions.

Should you have any further questions, please do not hesitate to contact me at the above telephone 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. 15

Date : July 22, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/798,453**

Applicant(s) : Gustavo C. Rodriguez
Application No. : 09/798,453
Filed : March 2, 2001

The above-identified application has been assigned Patent No. 6,599,751 and an issue date of July 29, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 29, 2003:

> **"All reference to Patent No. 6,599,751 to Gustavo C. Rodriguez of North Carolina for PREVENTION OF OVARIAN CANCER BY ADMINISTRATION OF PRODUCTS THAT INDUCE BIOLOGIC EFFECTS IN THE OVARIAN EPITHELIUM appearing in the Official Gazette of July 29, 2003 should be deleted since no patent was granted."**

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Commissioner for Patents
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Paper No. 14

RAYMOND N. NIMROD
SUITE 1000
200 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of
Gustavo C. Rodriguez
Application No. 09/798,453
Filed: March 2, 2001
Attorney Docket No. 31168

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 21, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition is accompanied by an amendment to claim priority under 35 U.S.C. § 120 to several nonprovisional applications. Since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) is the appropriate avenue of relief in seeking to add a priority claim under 35 U.S.C. § 120.

---

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

Telephone inquiries 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 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

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OFFICE OF PETITIONS

RAYMOND N. NIMROD
SUITE 1000
200 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

In re Application of
Gustavo C. Rodriguez
Application No. 09/798,453
Filed: March 2, 2001
Attorney Docket No. 31168

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on July 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment embodied in 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, 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.

The instant application was filed on March 2, 2001 and was pending at the time of filing of the instant petition.

---

[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 reference to the prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (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).

The instant petition does not comply with item (1).

When entering benefit claims for an application into the Office's database, the specific relationship (i.e., continuation, divisional or continuation-in-part) between each of the nonprovisional applications in the chain of nonprovisional applications must be clearly stated, or the information cannot be entered. The failure to properly set forth the specific relationship between each nonprovisional application in the chain places a burdensome effort on the Office that can be totally avoided if such benefit claims are clearly and properly submitted. The amendment filed July 21, 2003 is unclear as to the relationship of the prior-filed applications to each intermediate application in the chain. For instance, if this application is a continuation, continuation-in-part or divisional of a prior-filed application, the claim should be stated that "This application is a continuation, continuation-in-part or divisional of Application No. _____, filed ____, (now abandoned or now Patent No. _____); **and** a continuation, continuation-in-part or divisional of Application No. _____, filed _____ (now abandoned or now Patent No.____); **and** a continuation, continuation-in-part of Application No._____, filed ____ (now abandoned or now Patent No. _____) (etc.); which is a continuation, continuation-in-part or divisional of Application No._____, filed _____ (now abandoned or now Patent No._____) (etc). The **and** denotes that the instant application is a continuation, continuation-in-part or divisional of several other applications; wheareas the "which" denotes that an application is a continuation, continuation-in-part or divisional of all the other prior filed applications in the chain. Accordingly, so that the benefit claims can be entered properly into the Office's database, petitioner is respectfully requested to clearly set forth the specific relationship of each application to the other applications or prior-filed applications in the chain.

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) cannot be granted at this time.

In order to expedite consideration, petitioner may wish to submit the substitute amendment along with a renewed petition 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: 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

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 20

RAYMOND N. NIMROD
SUITE 1000
200 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

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OFFICE OF PETITIONS

In re Application of
Gustavo C. Rodriguez
Application No. 09/798,453
Filed: March 2, 2001
Attorney Docket No. 31168

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 15, 2003, 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 embodied in 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(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 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 March 2, 2001, and was pending at the time of filing of the instant petition. 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 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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications 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 the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) 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(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), 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.

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 1614 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

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

McCARTER & ENGLISH, LLP STAMFORD OFFICE
FINANCIAL CENTRE, SUITE 304A
695 EAST MAIN STREET
STAMFORD, CT 06901-2138

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OFFICE OF PETITIONS

In re Application of :
Edmund L. Valentine :
Application No. 09/798,460 : DECISION ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 97800.00012 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 7, 2007. Accordingly, the date of abandonment of this application is September 8, 2007. A Notice of Abandonment was mailed on September 14, 2007, subsequent to the filing of the present petition to revive.

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 $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Applicant claims small entity status under 37 CFR 1.27. Accordingly, t his application has been accorded small entity status.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 8

BELL, BOYD & LLOYD, LLC
PO BOX 1135
CHICAGO IL 60690-1135

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of :
Booth et al. :
Application No. 09/798,483 : DECISION DISMISSING PETITION
Filed: March 3, 2001 :
Attorney Docket No. 0113180-002 :

This is a decision on the petition filed April 23, 2001, requesting that the above-identified application be accorded a filing date of March 2, 2001, rather than the presently accorded filing date of March 3, 2001.

Petitioner asserted that the filing date was erroneously recorded as evidenced by the certificate of Express Mail submitted with the original application papers. It is unclear from the petition if petitioner is alleging that there is a discrepancy between the filing date accorded by the United States Patent and Trademark Office (USPTO) and the date-in entered by the United States Patent and Trademark Office (USPS) (37 CFR 1.10(c)) or that the date-in was incorrectly entered by the USPS (37 CFR 1.10(d)). Therefore, the Office will treat this petition under both 37 CFR 1.10(c) and (d).

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 added).

Consideration under 37 CFR 1.10(c)

Paragraph (c) 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 a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition lacks the showing required by item (3) above.

Petitioner did not submit a copy of the Express Mail label, indicating the "date-in." Further, petitioner failed to provide any other official notation by the USPS to show the date of deposit.

Consideration under 37 CFR 1.10(d)

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) and 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.

The present petition lacks the showing required by item (3) above.

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, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

The Office notes that petitioner bears the burden to prove that the "date-in" was incorrectly entered on the "Express Mail" mailing label. Petitioner has not provided any direct evidence of the delivery of the present application to the USPS on March 2, 2001. Absent 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" service, which corroborates the allegation that the application was, in fact, deposited with the USPS on March 2, 2001, before the last scheduled pick-up for that day, the application will be accorded the filing date of March 3, 2001.

Accordingly, the petition is **dismissed**.

Any request for reconsideration 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).

Further correspondence with respect to this matter should be addressed as follows and to the **attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 3, 2001.

Telephone inquiries regarding this matter should 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
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Paper No. 9

BELL, BOYD & LLOYD, LLC
PO BOX 1135
CHICAGO IL 60690-1135

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of :
Booth et al. :
Application No. 09/798,483 : DECISION GRANTING PETITION
Filed: March 3, 2001 :
Attorney Docket No. 0113180-002 :

This is a decision on the petition filed April 23, 2001, requesting that the above-identified application be accorded a filing date of March 3, 2001, with Figures 4-9, 10A-C, 11, 12A-B, 13-67 as part of the original disclosure.

The application was filed on March 3, 2001. However, on April 10, 2001, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, stating that the application had been accorded a filing date of March 3, 2001, but that Figures 4-9, 10A-C, 11, 12A-B, 13-67 described in the specification appeared to have been omitted. Additionally, the Notice required that applicants submit substitute drawings in compliance with 37 CFR 1.84.

In response, on April 23, 2001, applicants submitted, inter alia, the present petition, 43 sheets of substitute drawings, the petition fee, and a date-stamped postcard receipt. The postcard receipt acknowledged receipt of 43 sheets of drawings in the USPTO on March 3, 2001.

Upon review of the record, 43 sheets of drawings containing Figures 4-9, 10A-C, 11, 12A-B, 13-67 have been located in the application file. Therefore, the application was complete on filing. The Notice's requirement for the submission of the omitted Figures is hereby vacated.

In view of the above, the petition is granted.

The $130.00 petition fee is unnecessary, and therefore, will be refunded by treasury check.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 3, 2001, using the 43 sheets of drawings submitted with the

petition, and indicating in the Office records that 43 sheets of drawing were present on filing.

Any inquiries related to this decision should 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

Attn: Harold L. Peterson
Digital Square Inc.
380 Pueblo Road, Suite 100
Scotts Valley, CA 95066

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Muyres, et al. : DECISION ON PETITION
Application No. 09/798,503 :
Filed: March 1, 2001 :
Atty. Dkt. No.: DSQRP004 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 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 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 May 13, 2004 for failure to timely reply to the non-final Office action mailed February 12, 2004. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed August 25, 2004.

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 fails to satisfy requirement (1) set forth above. Petitioners have failed to submit a proper reply to the non-final Office action.

Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of a proper response to the Office communication.

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).

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

The correspondence address appearing on the instant petition differs from that currently of record. If petitioners desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. **Petitioners are advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: H. LEE PETERSON
DIGITAL DELIVERY NETWORKS, INC.
259 MOUNT HERMON RD. #101
SCOTTS VALLEY, CA 95066

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Ogawa, et al. :
Application No. 09/798,521 : ON PETITION
Filing Date: March 3, 2001 :
Docket No.: 112857-210 :

This decision is in response to the "REQUEST TO REQUEST CORRECTION OF FILING DATE," filed June 23, 2005. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-identified application a filing date of March 2, 2002.

The instant petition is **DISMISSED**.

Petitioners herein allege that the application was deposited into USPS Express Mail service on March 2, 2001. The instant petition is accompanied by the affidavit of Julianne R. Alonzo along with copies of documents submitted with the application on filing.

The argument and evidence submitted by petitioners have been considered, but are not persuasive. An applicant alleging that an application that filed in accordance with 37 CFR 1.10 was accorded a filing date other than that of the alleged date of deposit into Express Mail service has the burden of proving that the filing date accorded the application by the Office is different than that indicated by the USPS Express Mail "date-in."

Paragraph (a) of 37 CFR 1.10 states that:

> "(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
> (2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS

notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a)."

Paragraph (b) of 37 CFR 1.10 states that:

"Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail " mailing label with the "date-in " clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail " drop box) do so at the risk of not receiving a copy of the "Express Mail " mailing label with the desired "date-in " clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail " mailing label number thereon. See paragraphs (c), (d) and (e) of this section."

Paragraph (c) 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 there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that: (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date; (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

The instant petition fails to satisfy the timeliness requirement set forth at 37 CFR 1.10(c)(1). A request for corrected filing receipt was filed January 16, 2002. The Office was unable to comply with the request as indicated in the response mailed January 28, 2002 wherein petitioners were advised that if the application was submitted under 37 CFR 1.10, the filing date

would be the "date-in" indicated on the Express Mail label. The response further advised that a copy of the Express Mail label should be submitted for reconsideration of the request for corrected filing receipt. A review of the official application file does not indicate that a renewed request was made in response to the Office response mailed January 28, 2002. Thus, the record establishes that petitioners were aware that the application would continue to maintain a filing date of March 3, 2001, and that petitioners failed to seek further review of the matter in a timely fashion.

Furthermore, petitioners have failed to provide a copy of the Express Mail label or any other documentation from the USPS in accordance with 37 CFR 1.10(c)(3). The Express Mail label is necessary to establish that there is a discrepancy between the filing date accorded the application and the "date-in" set forth in Express Mail mailing label or other official USPS notation. Petitioners have merely indicated that the Express Mail label cannot be found and that the USPS does not keep records of receipts for 2001. Petitioners seek to rely upon the affidavit of Julianne R. Alonzo who has outlined the law firm procedures for filings with the USPS. She further indicates that she prepared the application papers for filing and that she herself mailed the completed application on March 2, 2001.

Petitioners have not provided convincing documentary evidence to establish that the application papers were deposited in USPS Express Mail service on the date alleged. Furthermore, The affidavit of Ms. Alonzo relies upon the affiants' recall of routine events that occurred more than four years earlier and are not more persuasive than the official record itself. The fact that petitioners and Ms. Alonzo believe the application papers were deposited into Express Mail service on March 2, 2001 is not more persuasive than the official application file which shows that the application were filed March 3, 2001 via Express Mail service.

Moreover, a search of the internal USPTO USPS Express Mail Finder Database indicates that the package bearing Express Mail Number EL416275468US, the same Express Mail Number contained in the application transmittal papers submitted with the application on filing, was accepted (i.e., "date-in") by the USPS on March 3, 2001 and delivered to the USPTO on March 5, 2001. (Copy of USPTO USPS Express Mail Finder Database enclosed.)

Any request for reconsideration of this decision must be filed within two (2) months of the mail date of the instant decision to be considered timely. See, 37 CFR 1.181(f). This time period may not be extended under 37 CFR 1.136. Absent submission of a timely renewed petition, the instant application will be forwarded to the Publications Division for further processing. Petitioners are further advised that a timely response to the outstanding Notice of Allowance mailed June 6, 2005 must be submitted in order to avoid abandonment of the instant application.

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of USPTO's USPS Express Mail Information Database record.

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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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of :
Ogawa, et al. :
Application No. 09/798,521 : ON PETITION
Filing Date: March 3, 2001 :
Docket No.: 112857-210 :

This decision is in response to the renewed petition entitled "REQUEST FOR RECONSIDERATION PURSUANT TO 37 C.F.R. § 1.181," filed September 14, 2005. This matter is also being treated, as requested, as a petition under 37 CFR 1.183 for waiver of the requirements of 37 CFR 1.10(c)(3).

DECISION UNDER 37 CFR 1.181

Petitioners request reconsideration of the decision mailed July 15, 2005. Petitioners argue that the above-identified application was mailed to the USPTO on March 2, 2001 utilizing the provisions set forth at 37 CFR 1.10. The application, however, was accorded a filing date of March 3, 2001.

The renewed petition does not provide any additional evidence to support petitioners contention that the application was deposited into Express Mail service in accordance with 37 CFR 1.10 on March 2, 2001. Petitioners argue that the Office has given little consideration to the documents submitted with the petition on June 23, 2005.

As previously stated on decision, petitioners are relying on affiant Julianne R. Alonzo's recall of routine events that occurred more than four years earlier. The fact that petitioners and Ms. Alonzo believe the application papers were deposited into Express Mail service on March 2, 2001 is no more persuasive than the official application file which shows that the application was filed March 3, 2001 via Express Mail service.

The instant renewed petition fails to provide any convincing documentary evidence to establish that the application papers were deposited in USPS Express Mail service on the date alleged.

An applicant alleging that an application filed in accordance with 37 CFR 1.10 was accorded a filing date other than that of the alleged date of deposit into Express Mail service has the burden of proving that the filing date accorded the application by the Office is different than that indicated by the USPS Express Mail "date-in."

Petitioners have failed to meet said burden. As a courtesy, a copy of an internal Express Mail log obtained from the USPTO's USPS Express Mail Information Database was provided to petitioners. The log clearly indicates that the package bearing Express Mail Number EL416275468US was accepted into (i.e., "date-in") USPS Express Mail service on March 3, 2001.

Petitioners have respectfully questioned the contents of the log, alleging that the zip code thereon is not that which petitioners would have used to mail the package. Petitioners have further requested clarification of the details contained in the log.

Again, the burden is on petitioners, not the USPTO, to dispute the official USPTO record that indicates that the application at issue was filed on March 3, 2001. Petitioners have failed to meet that burden by providing any substantive evidence that the application was deposited on any date other than March 3, 2001. Petitioners instead indicate that the Express Mail label at issue cannot be found, despite a very lengthy investigation to determine its whereabouts.

Furthermore, as previously indicated, the petition to accord the application an earlier filing date is deemed untimely. Petitioners submitted a request for corrected filing receipt on January 16, 2002. Petitioners were advised in a communication mailed January 28, 2002 to submit a request for corrected filing date along with a copy of the Express Mail label. A review of the application history does not indicate that a renewed request to accord the application a filing date of March 2, 2001 was ever filed prior to submission of the petition on June 23, 2005. Hence, there is no indication that petitioners have timely sought to address the matter of the filing date before the Office. Instead, the record would seem to reflect petitioners' acquiescence to the filing date of March 3, 2001.

The renewed petition references an ongoing investigation from on or about March of 2001 to determine the whereabouts of the Express Mail label used in connection with submission of the instant application to the USPTO. Petitioners indicate that files related to the instant application were reviewed and the USPS was contacted in an attempt to get a copy of the Express Mail label at issue. Petitioners, however, have provided no supplemental evidence of the alleged investigation to aid petitioners in establishing that the entire period of time prior to submission of the petition on June 23, 2005 has been spent investigating the whereabouts of the Express Mail label at issue.

Accordingly, petitioners have failed to establish that the entire period of delay in timely addressing the matter of the filing date has been justified.

Accordingly, petitioners' renewed petition to accord the instant application a filing date of March 2, 2001 is hereby **DISMISSED**.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[in] an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h)."

The required petition fee of $400.00 has been charged to petitioners' deposit account as authorized.

Petitioners herein seek waiver of 37 CFR 1.10(c)(3). Petitioners have failed to disclose any "extraordinary situation" that would warrant the waiver of the requirement to produce the Express Mail label to establish an earlier filing date. Petitioners have merely indicate that the Express Mail label cannot be found.

In accordance with 37 CFR 1.10, "[c]orrespondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at

the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked."

Petitioners have not disclosed the manner in which the envelope containing the application papers was deposited into Express Mail service. Ms. Alonzo indicated that she is responsible for "placing the documents to be filed with the U.S. PTO in the mail," and that she herself "mailed the completed application" in question, however, her affidavit does not disclose the manner in which the package containing the application was deposited into Express Mail Service. It is unclear whether Ms. Alonzo or someone at Ms. Alonzo's direction deposited the package with the USPS for deposit into Express Mail service. It has not been made clear if, for example, the person responsible for depositing the package into Express Mail service utilized a USPS "drop box" rather than dealing directly with the USPS. Furthermore, petitioners have provided no supplemental evidence of the deposit, such as an Express Mail log, to substantiate their argument that the application was deposited on March 2, 2001. *See*, MPEP 513.

Accordingly, petitioners have failed to establish the existence of an "extraordinary situation" warranting the waiver of the rules. A reasonably prudent person desirous of securing a particular filing date would have delivered the package containing the application papers to the USPS for deposit into Express Mail service to ensure that the Express Mail label bore the correct "date-in." Furthermore, a reasonably prudent person would have maintained a copy of the label as part of their overall business record keeping. Moreover, a reasonably prudent person would maintain an internal log to aid in substantiating the Express Mail deposit as set forth in MPEP 503.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10(c)(3) is hereby **DISMISSED**.

Any request for reconsideration of this decision must be filed within two (2) months of the mail date of the instant decision to be considered timely. See, 37 CFR 1.181(f). This time period may not be extended under 37 CFR 1.136.

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,766,478	2004-07-20	09/798,522	2001-03-03	UPA-01118

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jason Z. Lin/	Date (YYYY-MM-DD)	2009-08-18
Name	Jason Z. Lin	Registration Number	37492

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. 6766478
Issue Date: July 20,2004
Application No. 09798522
Filed: March 3,2001
Attorney Docket No. UPA-01118

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

This is a decision on the electronic petition, filed August 18,2009 ,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 August 18,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application :
Coccia, et al. :
Application No. 09/798,525 : PATENT TERM ADJUSTMENT
Filed: February 21, 2001 :
Dkt. No.: P 0277931 1997-30-0567A :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - REQUEST FOR RECONSIDERATION OF THE PATENT TERM INDICATED IN THE NOTICE OF ALLOWANCE PURSUANT TO 37 C.F.R. § 1.705," filed February 2, 2006.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**. The Office will adjust the amount of applicant delay from 240 days to 247 days. As for the request for reconsideration of patent term adjustment based upon 37 CFR 1.702(b), the decision will be **HELD-IN ABEYANCE** until after the patent issues.

The correct patent term adjustment ("PTA") at the time of the allowance remains zero days. A copy of the updated PAIR screen is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed November 2, 2005, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed February 2, 2006. Applicants request that the PTA be corrected from zero days to reflect an adjustment of 194 days.

At the time of allowance, the application is entitled to an adjustment of 94 days. Applicants have acknowledge the 72 day adjustment under 37 CFR 1.702(a)(1) and the adjustment of 22 days under 37 CFR 1.702(a)(2).

The adjustment of 94 days is properly reduced 247 days, as acknowledged by applicants. The previous calculation of PTA reflected a reduction of 240 days, but, as acknowledged by applicants, an additional reduction of seven days in accordance with 37 CFR 1.704(c)(8) should have been assessed. The reduction

began June 9, 2004, the date of receipt of the initial response to the non-final Office action mailed December 30, 2003, and ended June 15, 2004, the date of receipt of the supplemental response.

In view thereof, at the time of allowance, the application is entitled to an adjustment of zero days, as reflected in the Determination of Patent Term Adjustment.

The instant application for patent term adjustment further requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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

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

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

cc: ADJ. PUB. CALCULATOR

Day : Monday
Date: 8/21/2006

PALM INTRANET

Time: 09:49:49

PTA Calculations for Application: 09/798525			
Application Filing Date:	02/21/2001	PTO Delay (PTO):	94
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	240
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-7		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	08/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		7	
63	11/02/2005	MAIL NOTICE OF ALLOWANCE			
62	11/02/2005	MAIL OATH OF DECLARATION REQUIRED			
61	10/31/2005	ISSUE REVISION COMPLETED			
60	10/31/2005	OATH OR DECLARATION REQUIRED			
59	10/31/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	10/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
57	10/31/2005	NOTICE OF ALLOWABILITY			
56	10/26/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	08/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
54	08/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	08/24/2005	DATE FORWARDED TO EXAMINER			
52	08/17/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	08/24/2005	DATE FORWARDED TO EXAMINER			
50	08/17/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
49	08/24/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	08/17/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
46	06/22/2005	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
45	06/15/2005	EX PARTE QUAYLE ACTION			
44	03/14/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

43	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	03/23/2005	DATE FORWARDED TO EXAMINER			
41	03/14/2005	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	03/14/2005	NOTICE OF APPEAL FILED		91	37
39	03/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	06/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	09/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
36	09/10/2004	FINAL REJECTION			
35	06/25/2004	DATE FORWARDED TO EXAMINER			
34	06/15/2004	SUPPLEMENTAL RESPONSE			
33	06/15/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	06/08/2004	NEW OR ADDITIONAL DRAWING FILED			
31	06/15/2004	DATE FORWARDED TO EXAMINER			
30	06/08/2004	RESPONSE AFTER NON-FINAL ACTION		70	26
29	06/08/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	06/01/2004	WORKFLOW INCOMING PETITION IFW			
27	06/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	12/30/2003	MAIL NON-FINAL REJECTION	22		23
25	12/29/2003	NON-FINAL REJECTION			
24	08/25/2003	DATE FORWARDED TO EXAMINER			
23	08/08/2003	RESPONSE AFTER NON-FINAL ACTION		31	20
22	08/08/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	03/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		48	17
20	04/08/2003	MAIL NON-FINAL REJECTION			
19	04/07/2003	NON-FINAL REJECTION			
18	01/30/2003	DATE FORWARDED TO EXAMINER			
17	01/22/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
16	01/22/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	10/22/2002	MAIL RESTRICTION REQUIREMENT			
14	10/21/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
13	08/07/2002	DATE FORWARDED TO EXAMINER			

12	08/02/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
11	08/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	07/02/2002	MAIL RESTRICTION REQUIREMENT	72		-1
9	07/01/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
8	11/27/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	11/19/2001	APPLICATION DISPATCHED FROM OIPE			
6	11/14/2001	APPLICATION IS NOW COMPLETE			
5	05/30/2001	CORRESPONDENCE ADDRESS CHANGE			
4	05/30/2001	CORRESPONDENCE ADDRESS CHANGE			
3	05/29/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/21/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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In re Patent No. 6685948
Issue Date: February 3,2004
Application No. 09798542
Filed: March 2,2001
Attorney Docket No. NIH145.001C1

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

This is a decision on the electronic petition, filed April 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 April 4,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 10

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OFFICE OF PETITIONS

RANDALL J. KNUTH P.C.
3510-A STELLHORN ROAD
FORT WAYNE IN 46815-4631

In re Application of
James R. Alvey
Application No. 09/798,549
Filed: March 2, 2001
Attorney Docket No. ALV-1
Title: FLASHLIGHT ACCESSORY DEVICE

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on April 10, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 22, 2002, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 23, 2002. A Notice of Abandonment was mailed on January 14, 2003.

With the instant petition, petitioner has filed the petition fee (charged to petitioner's Deposit Account, as authorized in the petition), has submitted an amendment as the required reply, and has made the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing of the amendment filed with the instant petition.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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.

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

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

cc: James R. Alvey
9931 River Rapids Run
Fort Wayne, IN 46845

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)
6,566,356	2003-05-20	09/798,589	2001-03-02	ST00008 US NP

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	/Balaram Gupta/	Date (YYYY-MM-DD)	2007-06-14
Name	Balaram Gupta	Registration Number	40009

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. 6566356
Issue Date: May 20,2003
Application No. 09798589
Filed: March 2,2001
Attorney Docket No. ST00008-US-NP

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

This is a decision on the electronic petition, filed June 14,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 14,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Oppenheimer Wolff & Donnelly, LLP
P.O. Box 10356
Palo Alto, CA 94303

21 MAY 2002

In re Application of: Matthew R. Muyres)
Application No. 09/798,622) **DECISION ON REQUEST FOR**
Filed: March 1, 2001) **WITHDRAWAL AS ATTORNEY**
For: MICRO-TARGET FOR)
BROADBAND CONTENT)

This is a decision on the Request To Withdraw from Representation filed January 15, 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.

There is no statement that Raymond E. Roberts is ***authorized*** to sign on behalf of the other listed attorneys. Therefore, the request is **DENIED**.

It is further noted that those attorneys/agents associated with customer number 25696 are associated with this application. However, the Request for Withdrawal from Representation only requests withdrawal for the following: Paul L. Hickman (#28,516), Brian R. Coleman (#39,145), Michael J. Hughes (#27,077), Robert D. Hayden (#42,645), Larry B. Guernsey (#40,008), Stefanie H. Howell (#45,929), Daphne L. Burton (#45,323), Steven S. Kelly (#43,449), Rambod Nader (#47,262), and Raymond E. Roberts ("#38,597). If it is desired to withdraw from representation all attorneys/agents associated with customer number 25696, then all those attorneys/agents associated with this customer number should be listed, or alternately, the Request for Withdrawal from Representation should request withdrawal for those attorneys/agents associated with customer number 25696.

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Darrin L. Frye, MD
340 Royal Poinciana Way Suite 6C
Palm Beach, Florida 33480

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Frye :
Application No. 09/798,669 : ON PETITION
Filed: March 3, 2001 :
For: Needle Driver :

This is a decision on the petition under 37 CFR 1.137(a), filed on December 22, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned on July 10, 2003, for failure to file a timely response to the non-final Office action mailed on April 9, 2003, which set a three (3) month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 18, 2003.

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

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to

prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

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

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

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3), above.

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

---

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

As to item (1), petitioner has not provided a response to the nonfinal Office action of April 9, 2003. A copy of the nonfinal Office action accompanies this decision so that petitioner may submit a proper reply.

As to item (3), petitioner states that the Office action of April 9, 2003, was sent to his former address. Petitioner further states that he has exhausted all means to locate it at his previous address. Petitioner asserts that he attempted to have a copy of the Office action sent to his current address but could not accomplish such prior to the application becoming abandoned. Petitioner submitted a change of correspondence address with the present petition, as well as filed a second change of correspondence address to a new address on March 8, 2004.

Petitioner explains that he was activated to the US Army for Operation Enduring Freedom, and was unable to work on "this project" until his return to Florida.

As petitioner indicates, the Office properly mailed the Office action to the address of record as of April 9, 2003. The Office notes a delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the United States 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).

The showing of the record has been considered but is not persuasive. In any renewed petition under 37 CFR 1.137(a), petitioner must explain the circumstance that prevented him from changing his correspondence address with the USPTO from the period the response was due (July 9, 2003) until December 22, 2003, the date petitioner submitted a change of correspondence address. Petitioner indicated that he was activated to the US Army for Operation Enduring Freedom. Petitioner should submit a copy of his order indicating his duty station and the period of time he served. Additionally, petitioner must show that his duty was of such a nature that he was unable to correspond with the USPTO prior to the application becoming abandoned.

Lastly, petitioner should provide an explanation why he did not appoint a person to correspond with the Office on his behalf while he was on duty.

In summary, the circumstances surrounding the abandonment of this application do not rise to the level of unavoidable delay. Therefore, the petition is dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $665.00 (small entity).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions
(Note drawings may not be submitted by fax)

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Nonfinal Office Action dated 04/09/03
Form PTO/SB/64
Privacy Act Notification Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Darrin L. Frye, MD
340 Royal Poinciana Way Suite 6C
Palm Beach, Florida 33480

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FEB 14 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Frye :
Application No. 09/798,669 :
Filed: March 3, 2001 :
For: Needle Driver :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 4, 2005, to revive the above-identified application.

The petition is **granted**.

The application became abandoned on July 10, 2003, for failure to file a timely response to the non-final Office action mailed on April 9, 2003, which set a three (3) month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 18, 2003. On December 22, 2003, petitioner submitted a petition under 37 CFR 1.137(a), which was dismissed by the decision of July 2, 2004.

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, paid the petition fee, and made the proper statement of unintentional delay.

There is no indication that N. Alexander Nolte was ever empowered to prosecute the above-identified application. Moreover, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If Mr. Nolte desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and a change of address must be submitted. A courtesy copy of this decision will

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

This matter is being referred to Technology Center Art Unit 3743 for consideration of the amendment filed on February 4, 2005.

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

cc: N. Alexander Nolte
PO Box 460311
Houston, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM PA 19044

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MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Reem Safadi et al. :
Application No. 09/798,682 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. D2513 :

This is a decision on the petition filed January 23, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned June 30, 2005 for failure to timely pay the issue fee on or before June 29, 2005. Accordingly, a Notice of Abandonment was mailed August 29, 2005.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

MAIL

SEP 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

In re Application of:
Worster
Application No. 09/798,688
Filed: March 2, 2001
For: A VIRTUAL PRIVATE NETWORK PROTOCOL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Attorney filed August 27, 2002

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

The request is **GRANTED**.

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

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

cc: Tom Worster
199 W. Newton St., Apt. No. 2
Boston, MA 02116

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

MAIL

SEP 27 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

In re Application of:
Worster
Application No. 09/798,688
Filed: March 2, 2001
For: A VIRTUAL PRIVATE NETWORK PROTOCOL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Attorney filed August 27, 2002

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

The request is **GRANTED**.

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

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

cc: Tom Worster
199 W. Newton St., Apt. No. 2
Boston, MA 02116

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brian M. Dingman
Mirick, O'Connell, DeMallie & Lougee
100 Front Street
Worcester, MA 01608

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of

Hobbs, et al. :

Application No. 09/798,746

: DECISION ON PETITION

Filed: March 2, 2001

:

Attorney Docket No. 17561-00001

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 20, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 21, 2005. A Notice of Abandonment was mailed on July 28, 2005.

The amendment, filed January 24, 2006, is noted.

The application is being forwarded to Technology Center 2800, GAU 2872 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 17, 2010

Patent No. : 7,304,775 B2
Appl. No. : 09/798,746
Inventor(s) : Douglas S. Hobbs
Issued : December 4, 2007
Title : **ACTIVELY STABILIZED, SINGLE INPUT BEAM, INTERFERENCE LITHOGRAPHY SYSTEM AND METHOD**
Docket No. : **17561-00001**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Brian M. Dingman
Mirick, O'Connell, DeMallie & Lougee
100 Front Street
Worcester MA 01608

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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JUN 01 2010

OFFICE OF PETITIONS

Patent No. 7,304,775	:	ON PETITION
Issue Date: December 4, 2007	:	
Application No. 09/798,746	:	
Filed: March 2, 2001	:	
Attorney Docket No. 16139-014001US	:	

This is a decision on the petition filed June 10, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

COPY MAILED

OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Chin et al.	:	
Application No. 09/798,749	:	DECISION GRANTING PETITION
Filed: March 2, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1001.2323101	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/517,870, filed March 2, 2000, as 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 application is submitted after expiration of the period specified by 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 above-noted, prior-filed nonprovisional application 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 above-noted, 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 inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3731 for appropriate action on the amendment filed September 24, 2008, 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.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: 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
09/798,749	03/02/2001	3731	3532	10527-383001	114	8

CONFIRMATION NO. 9589

CORRECTED FILING RECEIPT

28075
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 10/30/2008

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 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)

Albert C. C. Chin, Newton, MA;
John Jianhua Chen, Plymouth, MN;
Yiqun Wang, Maple Grove, MN;
David W. Lodin, Zimmerman, MN;
Lixiao Wang, Long Lake, MN;
Ronald A. Sahatjian, Lexington, MA;
Ismail Guler, Minneapolis, MN;
Robert Burgmeier, Plymouth, MN;

Power of Attorney: The patent practitioners associated with Customer Number 28075

Domestic Priority data as claimed by applicant

This application is a CIP of 09/517,870 03/02/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/798,749**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multilayer medical device

Preliminary Class

606

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).

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SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Ofer Zimmerman	: DECISION ON REQUEST FOR
Patent Number	: 7583623	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/798,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1201** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/25/08

TO SPE OF : ART UNIT 1647 Seharaseyon, Jegtheesan

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/798789 Patent No.: 7056695

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1647
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Arlington, VA 22313-1450
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Paper No. 5

Sanford J. Asman
570 Vinington Court
Dunwoody, GA 30350

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Robert Gibson Riddett, Jr. :
Application No. 09/798,796 : ON PETITION
Filed: March 1, 2001 :
Attorney Docket No. 171606-1011 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts (Notice) mailed April 13, 2001, which set a period for reply of Two Months (2) months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 14, 2001.

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

The application file is being forwarded to Technology Center AU 3624 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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Arlington, VA 22313-1450
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Paper No. 5

Sanford J. Asman
570 Vinington Court
Dunwoody, GA 30350

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Robert Gibson Riddett, Jr. :
Application No. 09/798,796 : ON PETITION
Filed: March 1, 2001 :
Attorney Docket No. 171606-1011 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts (Notice) mailed April 13, 2001, which set a period for reply of Two Months (2) months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 14, 2001.

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

The application file is being forwarded to Technology Center AU 3624 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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Jonathan Logan	: DECISION ON REQUEST FOR
Patent Number	: 7631088	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/798,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DFW Mar-06

LAW OFFICES OF NAREN CHAGANTI
432 S. CURSON AVE, STE. 12H
LOS ANGELES CA 90036

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MAR 2 7 2006

OFFICE OF PETITIONS

In re Application of :
Baltersee et al. :
Application No. 09/798,813 : DECISION ON PETITION
Filed: 2 March, 2001 :
Atty Docket No. 3-3-3 :
:

This is a decision on the petition filed on 3 March, 2006, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 June, 2005, for failure to timely and properly reply to the final Office action mailed 4 February, 2005, which set a three (3) month shortened statutory period for reply. On 10 June, 2005 (certificate of mailing date 6 June, 2005), a one (1) month extension to time under 37 CFR 1.136(a) and an amendment after final rejection were filed.

---

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

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

However, the amendment did not place the application in *prima facie* condition for allowance. An Advisory Action was mailed on 5 July, 2005. Notice of Abandonment was mailed on 23 January, 2006.

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.

The revocation and power of attorney filed with the present petition cannot be accepted because it is not clear that the assignment was submitted for recording. 37 CFR 3.73(b)(1)(i) requires the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11. However, the "Statement Under 37 CFR 3.73(b)" submitted with the present petition does not state that documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

It is recommended that petitioners submit a new revocation and power of attorney utilizing the attached statement of 37 CFR 3.73(b), and submit all required assignment information for recordation as required by 37 CFR 3.11.

A copy of this decision is being forwarded to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record.

This application is being referred to the Technology Center 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

Encl: PTO/SB/96

cc: MENDELSOHN & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD, SUITE 405
PHILADELPHIA PA 19102

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

MAIL

JUN 25 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY PATENT AGENCY, INC.
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

In re Application of
Klein et al.
Application No. 09/798,815
Filed: March 1, 2001
For: MOBILE DEVICE EQUIPPED WITH DIGITAL IMAGE SENSOR

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April, 28, 2001, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

In accordance with M.P.E.P. § 708.02, Item VIII, an application may be granted special status provided that the applicant complies with each of the following items: (a) submits a petition to make special accompanied by the fee set forth in 37 C.F.R. § 1.17(i); (b) presents all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status; (c) submits a statement(s) that a pre-examination search was made, listing of the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, database search with the search terms used, etc.; (d) submits 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) submits a detailed discussion of the references, which discussion points 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.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: James B. Haugen	: DECISION ON REQUEST FOR
Patent Number	: 7590745	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/798,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1038** 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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United States Patent and Trademark Office
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In re Patent No. 6,353,604
Issue Date: March 5, 2002
Appl. No.: 09/798,845
Filed: March 01, 2001
For: GRIMWOOD ET AL.

DECISION DENYING PETITION
37 CFR 1.324

This is a decision on the petition filed 3/10/2005 to correct inventorship under 37 CFR 1.324.

The petition is denied.

MPEP 1481

37 CFR 1.324 (b)(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:...

This requirement was not met by the applicant.

KENNETH VANDERPUYE
PRIMARY EXAMINER

Kenneth Vanderpuye
Supervisory Patent Examiner
Art Unit 2638
Technology Center 2600

FALK, VESTAL & FISH
16590 Oak View Circle
Morgan Hill, CA 95037

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Paper No. 14

HOEKENDIJK & LYNCH, LLP
P. O. BOX 4787
BURLINGAME, CA 94011-4787

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JUL 23 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Darin C. Gittings, et al. :
Application No. 09/798,871 :
Filed: March 2, 2001 :
Attorney Docket No. 006-C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 26, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 27, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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). The $465 extensions of time submitted with the petition on June 26, 2003 was subsequent to the maximum extendable period for reply, the fee is unnecessary and will be credited to petitioner's deposit account number 50-1983.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3731 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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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Gad Haber, et al. :
Application No. 09/798,879 : ON PETITION
Filed: March 2, 2001 :
Attorney Docket No. 6727/0I361US0 :

This is a decision on the petition, filed April 20, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2124 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

MAIL

JUL 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of FRATKINA et al	:	DECISION ON PETITION UNDER
Application No.: 09/798,964	:	UNDER 37 CFR 1.181 TO
Filing Date: March 6, 2001	:	WITHDRAW HOLDING OF
For: A SYSTEM AND METHOD FOR PROVIDING AN INTELLIGENT MULTI-STEP DIALOG WITH A USER	:	ABANDONMENT

This is a decision on the petition filed March 11, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was abandoned for failure to file a timely response to the Office action mailed June 25, 2004. A Notice of Abandonment was mailed January 6, 2005.

The petition states that the Office action mailed June 25, 2004 was not received by applicant's representative. In addition, the petition includes a copy of a docket record where the Office action would have been entered had it been received. Furthermore, a review of the application file reveals that the Office action mailed June 25, 2004 was returned undelivered to the USPTO, which confirms that the Office action was never received.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED**.

In view of applicant's response to the Office action submitted on March 11, 2005 with the petition, the Office action will not be re-mailed, and the response will be considered timely.

The application is being forwarded to the Technology Center for consideration of the response filed March 11, 2005.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Raya Fratkina et al :
Application No. 09/798,964 :
Filed: March 6, 2001 :
Attorney Docket No. 05769.0015-00000 :

This is a decision on the petition, filed June 21, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2121 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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MINNEAPOLIS, MN 55402

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APR 09 2008

OFFICE OF PETITIONS

In re Application of :
FRATKINA, et al. :
Application No. 09/798,964 : DECISION ON PETITION
Filed: March 6, 2001 : TO WITHDRAW
Attorney Docket No. **05769.0015-00000** : 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 23, 2007.

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

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG & WOESSNER, PA** has been revoked by the assignee of the patent application on November 14, 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ICE MILLER, LLP**
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

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INDIANAPOLIS IN 46282-0200

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APR 14 2009

OFFICE OF PETITIONS

In re Application :
Fratkina, et al. :
Application No. 09/798,964 : PATENT TERM ADJUSTMENT
Filed: March 6, 2001 :
Dkt. No.: 05769.0015-00000 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 17, 2008. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **GRANTED IN PART and HELD IN ABEYANCE IN PART**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed February 19, 2008, indicated a patent term adjustment (PTA) to date of 674 days. The instant application for PTA was timely filed April 17, 2008, prior to the submission of the issue fee payment. Applicants argue that the application is entitled to an adjustment of 1,129 days, including adjustment pursuant to 37 CFR 1.702(b).

Applicants do not contest the adjustment to date for Office delay totaling 866 days. Applicants contest the reduction of 167 days in connection with the petition and reply filed March 11, 2005 in connection with the restriction requirement mailed June 25, 2004.

At the time of allowance, the application is entitled to an adjustment of 715 days, as discussed here.

As undisputed by applicants, the application is entitled to an adjustment totalling 866 days for Office delays.[1]

[1] In accordance with 37 CFR 1.702(a)(1), the application is entitled to an adjustment of 781 days in connection with the mailing of the restriction requirement on June 25, 2004. The application is entitled to a further adjustment of 85 days in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the non-final Office action on October 4, 2005.

The adjustment totalling 866 days is properly reduced 151 days.

Applicants contest the reduction of 167 days in connection with the petition and response to the restriction requirement filed March 11, 2005. The record establishes that the restriction requirement was not received by applicants. As a result of the non-receipt of the restriction requirement, the application was improperly held abandoned. The holding of abandonment was withdrawn by way of petition decision mailed July 11, 2005. Accordingly, the reduction of 167 days is in error.

The correct reduction in connection with the submission of the petition is five days. In accordance with 37 CFR 1.704(c)(4), the adjustment must be reduced five days, commencing March 7, 2005, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ending March 11, 2005, the date that the petition to withdraw the holding of abandonment was filed.

As undisputed by applicants, the adjustment is further reduced one day in accordance with 37 CFR 1.704(b) in connection with the response to the non-final Office action filed January 5, 2006.

As further undisputed by applicants, the adjustment is further reduced 24 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed June 15, 2006.

The adjustment must be further reduced 120 days in accordance with 37 CFR 1.704(c)(10)(ii) in connection with the 312 Amendment after final filed September 14, 2006. A response to the 312 Amendment was mailed on April 12, 2007.

The adjustment is subject to a further reduction of one day in accordance with 37 CFR 1.704(c)(10)(i) in connection with the petition to withdraw from issue filed June 21, 2007. The reduction commenced June 21, 2007, the date the petition was filed, and ended June 22, 2007, the date that a response thereto was mailed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 715 days (adjustments totalling 866 days less reductions totalling 151 days).

The instant application for patent term adjustment also requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of

the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

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

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

Enclosure: Adjusted PAIR Calculation

Day : Monday
Date: 4/13/2009

PALM INTRANET

Time: 11:36:47

PTA Calculations for Application: 09/798964			
Application Filing Date:	03/06/2001	PTO Delay (PTO):	866
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	192
Post-Issue Petitions:	0	Total PTA (days):	713
PTO Delay Adjustment:	39		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
150	04/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	39		
135	02/19/2008	MAIL NOTICE OF ALLOWANCE			
134	02/15/2008	ISSUE REVISION COMPLETED			
133	02/15/2008	DOCUMENT VERIFICATION			
132	02/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
131	02/13/2008	NOTICE OF ALLOWABILITY			
115	02/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
114	12/28/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
113	12/18/2007	CORRESPONDENCE ADDRESS CHANGE			
112	12/18/2007	DATE FORWARDED TO EXAMINER			
111	11/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
110	11/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
109	10/23/2007	PETITION ENTERED			
108	09/11/2007	MAIL RESTRICTION REQUIREMENT			
107	09/04/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
106	06/21/2007	REFERENCE CAPTURE ON IDS			
105	06/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
104	06/21/2007	MISCELLANEOUS INCOMING LETTER			
103	05/21/2007	MISCELLANEOUS INCOMING LETTER			
102	06/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
101	06/21/2007	WORKFLOW - DRAWINGS FINISHED			
100	06/21/2007	NEW OR ADDITIONAL DRAWING FILED			

99	06/27/2007	DATE FORWARDED TO EXAMINER			
98	06/21/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
97	06/27/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
96	06/21/2007	MISCELLANEOUS INCOMING LETTER			
95	06/25/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
94	06/25/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
93	06/22/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
92	06/21/2007	PETITION ENTERED			
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90	06/21/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
89	06/06/2007	ISSUE NOTIFICATION MAILED			
88	06/26/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
87	06/06/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
86	05/30/2007	WORKFLOW - QUERY REQUEST - FINISH			
85	05/25/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
84	05/24/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
83	05/02/2007	WORKFLOW - QUERY REQUEST - BEGIN			
82	04/13/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
81	04/12/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
80	04/12/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
79	04/10/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
77	12/13/2006	EXPORT TO FINAL DATA CAPTURE			
73	11/20/2006	FINISHED INITIAL DATA CAPTURE			
72	09/27/2006	TC RETURN TO PUBS			
71	10/12/2006	ISSUE FEE PAYMENT VERIFIED			
70	09/27/2006	WORKFLOW - DRAWINGS FINISHED			
69	10/12/2006	ISSUE FEE PAYMENT RECEIVED			
68	10/09/2006	WORKFLOW - QUERY REQUEST - FINISH			

67	09/27/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
66	09/27/2006	WORKFLOW - DRAWINGS FINISHED			
65	09/27/2006	MAIL EXAMINER'S AMENDMENT			
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63	09/14/2006	MISCELLANEOUS INCOMING LETTER			
62	09/14/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
61	09/14/2006	WORKFLOW - DRAWINGS FINISHED			
60	08/21/2006	PUBS CASE REMAND TO TC			
59	08/24/2006	WORKFLOW - QUERY REQUEST - BEGIN			
58	07/14/2006	EXPORT TO INITIAL DATA CAPTURE			
57	07/10/2006	MAIL NOTICE OF ALLOWANCE			
56	06/27/2006	ISSUE REVISION COMPLETED			
55	06/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	06/23/2006	NOTICE OF ALLOWABILITY			
53	06/01/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	06/20/2006	DATE FORWARDED TO EXAMINER			
51	06/15/2006	SUPPLEMENTAL RESPONSE		24	45
50	06/20/2006	DATE FORWARDED TO EXAMINER			
49	06/15/2006	SUPPLEMENTAL RESPONSE			
48	06/07/2006	DATE FORWARDED TO EXAMINER			
47	06/01/2006	SUPPLEMENTAL RESPONSE			
46	05/26/2006	DATE FORWARDED TO EXAMINER			
45	05/22/2006	AMENDMENT AFTER FINAL REJECTION			
44	04/03/2006	MAIL FINAL REJECTION (PTOL - 326)			
43	03/31/2006	FINAL REJECTION			
42	01/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	03/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40.7	01/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	38
40	01/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	01/27/2006	DATE FORWARDED TO EXAMINER			
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36	09/30/2005	NON-FINAL REJECTION			
35	07/20/2005	DATE FORWARDED TO EXAMINER			
34	03/11/2005	RESPONSE TO ELECTION / RESTRICTION FILED		167	25
33	07/20/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
32	07/20/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
31	03/11/2005	REFERENCE CAPTURE ON IDS			
30.7	03/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	03/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	07/11/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
28	03/11/2005	PETITION ENTERED			
27	01/06/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
26	01/05/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
25	06/25/2004	MAIL RESTRICTION REQUIREMENT	781		-1
24	06/25/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
23	05/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	01/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
21.7	11/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	11/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/02/2003	CORRESPONDENCE ADDRESS CHANGE			
19	06/06/2002	PRELIMINARY AMENDMENT			
18	05/20/2002	PRELIMINARY AMENDMENT			
17	05/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
16.7	09/25/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/25/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	07/06/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/06/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/16/2002	CASE DOCKETED TO EXAMINER IN GAU			

12	04/02/2002	CORRESPONDENCE ADDRESS CHANGE			
11	04/03/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
10	03/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	02/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	01/08/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	07/25/2001	APPLICATION DISPATCHED FROM OIPE			
5	04/19/2001	APPLICATION IS NOW COMPLETE			
4	04/19/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/18/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/24/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/06/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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TECHNOLOGY CENTER 2100

Paul Bobowiec
STAAS & HALSEY LLP
1201 New York Avenue, NW, Suite 700
Washington, D.C. 2005

In re Application of:
Bintatsu Noda, et al.
Application No. 09/799,010
Filed: March 6, 2001
For: Method and Apparatus for Controlling Contents Utilization, and a Computer Product

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed October 12, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed June 19, 2007.

The petition is **DISMISSED AS MOOT**.

On October 12, 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed June 19, 2007. In the petition, applicant's counsel alleged that the office action is incomplete as it failed to address the current claims nor the previous applicant arguments; thus, rendered the Final Office action premature.

On December 18, 2007, applicant filed a Request for Continued Examination (RCE) with the required fee, a preliminary amendment and a petition for three (3) month extension of time.

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition ...

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

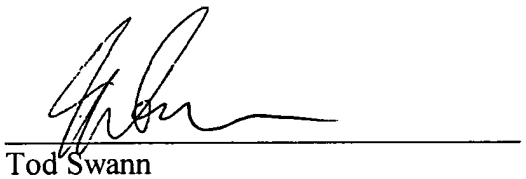
As stated in 37 C.F.R. § 1.181(f), the mere filing of a petition will not stay any period for reply that may be running against the application. A delay to render a decision on this petition is hereby regretted.

In view of 37 C.F.R. § 1.114(d) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and the amendment will be entered and considered.

Accordingly, the petition is **DISMISSED AS MOOT.**

The application file is awaiting consideration of the RCE on the examiners amended docket.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.



Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Masami Hayashi et al.	:	
Application No. 09/799,110	:	DECISION ON PETITION UNDER
Patent No. 6,812,071	:	37 C.F.R. §3.81(B)
Filed: March 6, 2001	:	
Issue Date: November 2, 2004	:	
Attorney Docket Number: 401118	:	
Title: METHOD OF PRODUCING	:	
CRYSTALLINE SIMICONDUCTOR FILM	:	
AND SEMICONDUCTOR DEVICE FROM	:	
THE FILM	:	

This is a decision on the petition filed November 5, 2004, which is treated as a petition pursuant to 37 C.F.R. §3.81(b)[1], to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

Petitioner states that the correct assignee's name is "Mitsubishi Denki Kabushiki Kaisha, Tokyo (JP), Seiko Epson Corporation Tokyo (JP)" and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to Mitsubishi Denki Kabushiki Kaisha, Tokyo (JP), Seiko Epson Corporation Tokyo (JP).

1 See Official Gazette, June 22, 2004.

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

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

A review of Office database assignment records reflects that the assignment of the present patent to the assignees noted above was submitted for recordation prior to the issuance of the present application. Petitioner has also submitted a certificate of correction, along with the associated petition fee and processing fee.

As such, the petition is **GRANTED**.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested certificate of correction.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Patent No. 6,908,741 :
Issue Date: June 21, 2005 :
Application No. 09/799,152 : NOTICE
Filed: March 5, 2001 :
Attorney Docket No. 41305-252460

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Samuel B. Rollins
Transtech Pharma
4170 Mendenhall Oaks Pkwy, Suite 110
High Point, NC 27265

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JUL 21 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,401,290
Issued: July 15, 2008
Application No. 09/799,195
Filed: March 5, 2001
Dkt. No.: 07844-464001

: ON PETITIONS under
: 37 CFR 1.183 and ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on November 26, 2008.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,401,290, with a revised patent term adjustment of 1,215 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183 TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 15, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 26, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 15, 2008, the date two months from the date this patent issued, July 15, 2008. Rather, on November 26, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

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

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is that "Assignee may lose 356 days in the life of its patent through no fault of its own, seriously prejudicing Assignee in fully enforcing its statutory patent rights if this petition is not granted" in view of the situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states in view of Wyeth, "the Office's method for calculation the PTA was in error" and that "as a result of this change in the law, which occurred more than four months after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment."

Petitioner has not established that he was precluded from filing a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Instead, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 26, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 1,571 days.

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,401,290 with a revised patent term adjustment of 1,215 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on November 26, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SEP 26 2003

OFFICE OF PETITIONS

In re Application of
Donovan et al.
Application No. 09/799,304
Filed: March 5, 2001
Attorney Docket No. P-9216.00

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 11, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 14, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 15, 2002. A Notice of Abandonment was mailed on April 4, 2003.

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

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

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

for

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

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Mailed: 9-22-06

In re application of	:	
J. Robert Prough	:	DECISION ON
Serial No. 09/799,372	:	PETITION
Filed: March 5, 2001	:	

For: EXTRACTION WITH COMPACTION AND SPRINGBACK CONSIDERATIONS

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR THE REQUIREMENT OF THE EXAMINER TO RESCIND THE CANCELLATION OF CLAIMS 1 AND 12 AND THE ISSUE OF CLAIMS 1 AND 12, filed September 5, 2006.

On March 7, 2005, the Board of Appeal issued a decision reversing the rejections of claims 21-24 and on July 14, 2005, the Office issued a paper requiring the claims 2, 13 and 21-24 be placed in independent form. The applicant chose to only rewrite claims 13 and 23 and did so in a paper filed August 9, 2005, wherein the limitations of claims 23 and 13 were incorporated into independent claims 12 and 1, respectively. On August 9, 2006, the Office issued a Notice of Allowance canceling the rewritten claims 1 and 12, indicating that the applicant's reply did not comply with the requirements of the paper issued July 14, 2005.

On September 5, 2006, the instant petition under 37 CFR 1.181 was timely filed to request the reinstatement of rewritten claims 1 and 12.

Petitioner's position is that the amendment to claims 1 and 12 did in effect put claims 13 and 23 in independent form and that the examiner was incorrect to cancel these claims.

DECISION

Section 1214.06 of the MPEP states in part:

II. CLAIMS STAND ALLOWED

The appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed. *>For paper files, a< red-ink line should be drawn through the refused claims and the notion "Board Decision" written in the margin in red ink.

If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or ex parte reexamination certificate with claim 3 only.

> If the Board affirms a rejection against independent claim 1, reverses all rejections against dependent claim 2 and claim 3 is allowed, after expiration of the period for further appeal, the examiner should either:
(A) Convert dependent claim 2 into independent form by examiner's amendment, cancel claim 1 in which the rejection was affirmed, and issue the application with claims 2 and 3; or.
(B) Set a 1-month time limit in which appellant may rewrite dependent claim 2 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 claims 1 and 2 and issue the application with allowed claim 3 only.
The following form paragraph may be used where appropriate:<
>
¶ 12.119.02 Examiner Sustained in Part - Requirement of Rewriting Dependent Claims (At Least One Allowed Claim)
The Board of Patent Appeals and Interferences affirmed the rejection(s) against independent claim(s) [1], but reversed all rejections against claim(s) [2] dependent thereon. The independent claim(s) is/are cancelled by the examiner in accordance with MPEP § 1214.06. Applicant is given a ONE MONTH TIME PERIOD from the mailing date of this letter in which to present the dependent claim(s) in independent form. NO EXTENSIONS OF TIME UNDER 37 CFR 1.136(a) WILL BE GRANTED. Failure to comply will result in cancellation of the dependent claims and the application will be allowed with claim(s) [3]. Prosecution is otherwise closed.
Examiner Note
1.
In bracket 1, enter the independent claim number(s) for which the Board affirmed the rejection(s).
2.
In bracket 2, enter the dependent claim number(s) for which the Board reversed the rejection(s).
3.
In bracket 3, enter the claim number(s) of the allowed claims.
< If uncorrected matters of form which cannot be handled without written correspondence remain in the application, the examiner should take appropriate action but prosecution is otherwise closed. ** A letter such as that set forth in form paragraph *>12.120< is suggested:.

Upon review of the application and prosecution history, it is clear that the examiner has not properly followed the guidelines set forth in the MPEP above and that the petitioner's argument has merit. The applicant's amendment filed August 9, 2005, wherein the limitations of allowable dependent claims 23 and 13 were incorporated into independent claims 12 and 1, respectively, is effectively placing claims 13 and 23 in independent form. Thus, meeting the examiner's requirement the paper of July 14, 2005 and MPEP 1214.06. Therefore, it is deemed that the examiner erred in canceling claims 1 and 12 in the Examiner's Amendment of August 9, 2006.

Accordingly, the petition for reinstatement and issue of claims 1 and 12 is **GRANTED.** The application will be forwarded to the examiner to reinstate claims 1 and 12 and issue a supplemental Notice of Allowability.

Jacqueline M. Stone

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

Robert A. Vanderhye
801 Ridge Dr.
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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Knowles et al. :
Application No. 09/799,376 : ON PETITION
Filed: March 5, 2001 :
Attorney Docket No. 1165.43US01 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 26, 2001, to revive the above-identified application. This is also a decision on the petition filed December 26, 2001, to accept a copy of the IDS references on compact disc. The second petition will be treated as a petition under 1.182.[1]

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

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 5, 2001. The Notice set an extendable period for reply of two (2) months from the mail date of the Notice. A one month extension of time was obtained and a reply timely entered. However, the reply was incomplete and a Notice was mailed on August 8, 2001, stating that the application would become abandoned if a complete reply was not filed within the time period set in the original Notice. A complete reply was not subsequently filed within the allowable time period. Accordingly, the application became abandoned on July 6, 2001.

Petitioner has now filed a proper reply in the form of drawings free from erasures, alterations, overwritings, interlineations, folds, and copy marks.

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

The petition under 37 CFR 1.182 is **dismissed.**

Petitioner seeks to submit a compact disc[2] containing electronic representations of the references. The disc contains the references as images in Adobe's proprietary PDF file format.

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[1] 37 C.F.R. 1.182 provides relief for situations that are not specifically provided for in the regulations and the granting of such relief will be decided in accordance with the merits of each situation. The rules (§§ 1.97, 1.98), while specifically providing for meeting duty of disclosure obligations under 37 C.F.R. 1.56, do not provide for, nor preclude, an applicant from meeting such obligations (or any additional disclosure in excess thereof) by way of methods alternative to those provided for in the Rules, such as by use of a compact disc.

[2] The compact disc is identified in the petition as a "CD-ROM" type which has not yet been verified. The compact disc appears to have a blue hue tint. Aluminum is usually used as the metal reflective layer in CD-ROM discs because of its ease of application and low cost. The aluminum does not normally bear a blue hue tint. Some CD-R discs bear a blue hue tint because of the different dyes used in the manufacture of CD-R discs as opposed to CD-ROM discs. For example, cyanine dye appears blue on silver media.

The submission of the references on disc has two primary advantages. First, petitioner does not have to print and then submit a heavy, bulky package to the Patent and Trademark Office. Second, in transferring the file from one location to another, the Office will not have to transfer a heavy, bulky file which will include several boxes of papers related to the IDS.

Unfortunately, the disadvantages outweigh the advantages.

In deciding the petition, the Office must consider the effect acceptance might have on the public's ability to inspect the file in the future.[3]

In accepting a computer disc in lieu of a paper copy, the Office must be wary of any technological changes the future may impose. For example, the Office must consider whether a member of the public, if supplied with a copy of the disc in 18 years, will be able to read such a disc. The average computer today does not have the capability to read all formats which were used 18 years ago. The only way to ensure that the Office's obligation to the public will be met is to print the files to paper and store such paper. Thus not only would the Office still retain the burden of storing paper, but it would also incur the additional burden of processing the compact discs and producing a paper copy from the discs.

In response to technological innovations over the last few years, the Office is taking steps to increase its ability to accept applications and portions of applications in an electronic medium. At the current time, the Office is capable of accepting portions of patent applications on CD-ROM and CD-R media, under 37 C.F.R. § 1.52(e) when the data is submitted as an ASCII file. No other file formats are permitted.[4] The compact disc becomes part of the official record. The Office also has a program which permits the electronic transmittal of patent applications in certain non-ASCII file formats. However, the electronic transmission is immediately printed on paper and the printed paper copy becomes part of the Office's official permanent application record. The non-ASCII electronic transmission is not retained as the Office record.

The Office is working to obtain the capability to accept non-ASCII files as part of the permanent record of a patent application. However, that work is not yet complete. There is no program in place at the present time for acceptance of non-ASCII files.

Problems will arise even if petitioner resubmits the IDS references as ASCII files. In deciding the petition, the Office must not only consider the effect on the examiner's ability to process and consider the IDS references Many examiners have not been trained how to view compact discs in ASCII format because their job duites do not normally require such a task. The examiners in TC 2100, where the instant application is assigned, are not in an area expected to be affected by application filings using 37 C.F.R §1.52(e). Accordingly, training has not been provided to perform this task at this time. Since not all examiners have equivalent computer skills, an individual

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[3] The requirements on the Office to ensure that the content of the files can be accessed by the public is imposed by federal regulations. A compact disc, if accepted, would become an electronic record of the PTO and subject to various electronic records management requirements. These requirements include developing a record disposition schedule, and providing media and file formats that continue to be usable with future PTO computer systems and software. See 36 C.F.R. 1234.30. Ultimately, if transferred to the National Archives, the media and data formats would have to comply with the National Archive requirements or be converted to a form accepted by the National Archives. See 36 C.F.R. 1228.188. Acceptable archivable media include Compact Disc-Read Only Memory (CD-ROM), but not other similar media which is rewritable such as Compact Disc-Read Write (CD-RW). Applicant indicates their media is CD-ROM but as indicated in footnote 2, supra, this may be incorrect. The Office has no program to ensure that any program is updated to be compatible with new computer systems when the old computer systems become discontinued. Although, the ASCII data files are acceptable as being archivable, other data file formats such as HTML and proprietary formats such as PDF cannot be assured as usable in the future. For non-archivable formats the Office would be compelled to convert the compact discs to some other archivable form. Ultimately, if the archivable form is paper, the Office has then incurred additional expense with little ultimate gain.

[4] The Office does not currently have a program in place to process and accept files in Adobe's PDF file format.

examiner's ability to perform this task cannot be determined until any resubmitted compact discs are evaluated. Therefore, acceptance of IDS references on compact disc would impose a burden on the Office to train examiners to process such discs.

Acceptance of a compact disc imposes a burden on the Office to check the disc for viruses. At this time, a program does not exist to detect any and all viruses and such a program may never exist.[5] Examiner's workstations are networked together and are connected to numerous other Office systems. Therefore, the burden to test any compact discs submitted is a consideration which must be taken into account when determining whether the submission of a contact disc is proper.

This decision does not decide the issue of whether or not a compact disc covering the substantially, voluminous references would be accepted if the files were modified in an acceptable archivable form that is compatible with Office computer systems and that would not require undue training and a testing burden for the Office. Petitioner should note that conversion of the files to an ASCII format could result in the loss of text format and/or drawing details thereby reducing the value of such references on compact disc and making their acceptance by the Office less desirable.

The Office agrees that the filing of a substantial amount of paper places a burden on the Office. Unfortunately, the burden of accepting the compact disc presented with the petition currently outweighs the advantages of accepting the disc.

The file is now being forwarded to the Office of Initial Patent Examination for entry of the drawings filed in response to the Notice of Missing Parts and for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[5] See, An Undetectable Computer Virus by David Chess and Steve White, presented at the Virus Bulletin Conference, September 2000. Can be found at http://www.research.ibm.com/antivirus/SciPapers.htm ("One of the few solid theoretical results in the study of computer viruses is Cohen's 1987 demonstration that there is no algorithm that can perfectly detect all possible viruses [1]. This brief paper adds to the bad news, by pointing out that there are computer viruses which no algorithm can detect, even under a somewhat more liberal definition of detection. We also comment on the senses of "detect" used in these results, and note that the immediate impact of these results on computer virus detection in the real world is small.")

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. 3

APR 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GRAY CARY WARE & FREIDENRICH
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 02121-2133

In re Application of:
Taher Behbehani
Application No.: 09/799,415
Filed: March 5, 2001
For: DYNAMICALLY RECONFIGURABLE INTELLIGENT CONTENT-BASED NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed February 27, 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**.

It is noted that the Request for Withdrawal as Attorney of Agent is only effective for Terrance A. Meador, since there is no clear indication that he is signing on behalf of the other attorneys of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(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: Taher Behbehan
4350 La Jolla Village Drive, Suite 450
San Diego, CA 92122

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

Taher Behbehani
4350 La Jolla Village Drive, Suite 450
San Diego CA 92122

MAIL

JUN 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Behbehani)
Application No.: 09/799,415)
Filed: March 5, 2001)
For: DYNAMICALLY RECONFIGURABLE)
INTELLIGENT CONTENT-BASED NETWORK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record filed May 2, 2002.

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

The request is **GRANTED**.

All future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. This address was changed in response to the previous request to withdraw

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

cc:

Terrance A. Meador
GRAY CAREY WARE & FREIDENRICH
4365 Executive Drive
San Diego, CA 92121-2133

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 6

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

COPY MAILED

DEC 17 2001

OFFICE OF PETITIONS

In re Application of	:	
Harri Vatanen	:	
Application No. 09/799,444	:	DECISION REFUSING STATUS
Filed: 5 March, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 2132-44PCON	:	

This is in response to the petition under 37 CFR 1.47(b) filed on 19 November, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 5 March, 2001, without an executed oath or declaration.

Accordingly, on 17 April, 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 19 November, 2001, the present petition and petition fee were filed, accompanied by, *inter alia*, a request and payment of the fee for a five (5) month extension of the time to reply to the "Notice" and a declaration naming Harri Vatanen as the sole inventor and signed by Anti Vasera, CEO of Sonera Smarttrust Oy on behalf of the non-signing inventor, an unsigned assignment of the patent from the inventor to Sonera Oy.

Petitioners state that a copy of the declaration was sent repeatedly to Vatanen, but that Vatanen orally refused to sign it. Petitioners further state that Vatanen is legally obligated to assign the application to Sonera.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (2), (5) and (6). In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review.[1] In this respect, it is noted that although the letters allegedly sent to Vatanen state that a "commission," a power of attorney, and a copy of the assignment were sent to Vatanen, none of the letters states that a copy of the application papers (specification, including claims, drawings, if any, and the Declaration), were ever sent to the non-signing inventor. Additionally, as the letters do not state the address to which they were sent, it is unclear whether they were sent to Vatanen's last known address, hand delivered, or sent to some other address.

Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person with

[1] MPEP 409.03(d).

first-hand knowledge of the details.

Likewise, before a refusal can be alleged, petitioners must demonstrate that the non-signing inventor was sent or given a copy of the application papers. Furthermore, petitioners have not provided first-hand testimony supporting the alleged oral refusal to sign the declaration on the part of Vatanen. Petitioners must provide proof that the inventor refused to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners must provided a copy thereof with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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. The declaration under 37 CFR 1.63 and 1.64 does not set forth the citizenship, residence, and mailing address of the individual signing on behalf of Sonera Smarttrust Oy, the putative party having proprietary interest. Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required.[2] As the individual signing the declaration is not a corporate officer (president, vice president, secretary, or treasurer), proof of the authority of the person signing on behalf of the corporation must be submitted.[3]

In regards to item (5), petitioners have not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application under 37 CFR 1.47(b). Specifically, the assignment submitted as evidence of proprietary interest has not been signed. Additionally, the "International Assignment Contract" submitted with the petition is silent as to the ownership of inventions or patent applications. Petitioners should submit a copy of an executed assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

---

[2] See MPEP 409.03(b).

[3] Id.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

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)308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 04-02

Paper No. 9

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

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APR 2 2 2002

OFFICE OF PETITIONS

In re Application of	:
Harri Vatanen	: DECISION NOTHING JOINDER OF
Application No. 09/799,444	: INVENTOR AND PETITION UNDER
Filed: 5 March, 2001	: 37 CFR 1.47(b) MOOT
Attorney Docket No. 2132-44PCON	:

Papers filed on 9 January, 2002, in response to the decision mailed on 17 December, 2001, included a Declaration signed by the previously non-signing inventor, Harri Vatanen, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any Rule 1.47(b) 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(b).

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

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 6

Petrina S. Hsi
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Tang et al. :
Application No. 09/799,451 :
Filed: March 5, 2001 :
Attorney Docket No.803 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 16, 2002 (certificate of mailing September 11, 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 November 15, 2001. The Notice to File Missing Parts set a 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 January 16, 2002. 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**.

The Office acknowledges receipt of the executed declaration and power of attorney.

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

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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Takayuki Nabeshima :
Application No. 09/799,489 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No.: 325772023000 :

This is a decision on the petition, filed September 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 24, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2628 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 : October 2, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Takayuki Nabeshima
Application No. : 09/799,489
Filed : March 7, 2001

The above-identified application has been assigned Patent No. 7,123,270 and an issue date of October 17, 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 October 17, 2006:

> "All reference to Patent No. 7,123,270 to TAKAYUKI NABESHIMA of JAPAN for COLOR CONVERSION APPARATUS AND METHOD WITH PRECISION ENHANCEMENT IN COLOR CONVERSION appearing in the Official Gazette of October 17, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Daniel E. Johnson, Esq.
IBM Corporation, Almaden Research Center
650 Harry Road
C4TA-J2B
San Jose CA 95120-6099

MAIL

OCT 1 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Roy D. Cideciyan, et al.
Application No. 09/799,492
Filed: March 7, 2001
For: PRECOMPENSATION TECHNIQUE AND MTR CODE FOR HIGH DATA RATE RECORDING

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 August 6, 2004.

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

The Request to Withdraw as Attorney and change correspondence address is **Dismissed as Moot**. There is no record of the requesting attorney every having been appointed as having power of attorney in the application in the first place. Therefore, the requesting attorney does not have the authority to revoke power of attorney or change correspondence address.

All original appointed attorneys/agents remain of record.

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

CC: Thomas L. Evans
Banner & Witcoff, Ltd.
601 S.W. Second Avenue
Suite 1900
Portland, OR 97204

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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BACON & THOMAS, PLLC
4th FLOOR
625 SLATERS LANE
ALEXANDRIA, VA 22314-1176

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	
Application No. 09/799,537	:	ON PETITION
Filed: March 7, 2001	:	
Attorney Docket No. JUNG3001beu	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 10, 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 December 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 13, 2004. A Notice of Abandonment was mailed May 5, 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.

LianaChase

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

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

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of :
Mueller et al. :
Application No. 09/799,593 :
Filed: March 7, 2001 : DECISION ON PETITION
Title of Invention: :
SINGLE-STAGE PROCESS FOR :
PREPARING GLYCOL MONOETHERS :
FROM OLEFINS :

This is a decision on the Petition for Certificate of Correction Under 37 C.F.R. § 1.183, filed June 24, 2004. The petition requests a change in the name of the assignee after payment of the issue fee. The petition is properly treated under 37 C.F.R. §3.81(b). The delay in treating this petition is regretted.

The petition is **dismissed**.

The petition asserts that an assignment for the above-identified application (now U.S. Patent No. 6,740,616, issued May 25, 2004), was previously recorded at reel/frame 011677/0378.

A review of Office records for the above-identified application reveals that no assignment has been recorded. A review of reel/frame 011677/0378 reveals that the assignment recorded therein is not an assignment for the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : November 17, 2006
Serial No. : 09/799,593
Patent No. : 6,740,616 B2
Patent Issued : May 25, 2004
Inventor(s) :Ulrich Muller, et al.
Title :SINGLE-STAGE PROCESS FOR PREPARING GLYCOL MONOETHERS FROM OLEFINS

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 Rules1.322.

Respecting the alleged error noted in your request for changes in the Assignee, the petition is dismissed. The petition asserts that an assignment for the above-identified application (now U.S. Patent No. 6, 740,616, issued May 25, 2004), was previously recorded at reel/frame 011677/0378.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
FAX 571-270-9942

Oblon, Spivak, McClelland,
Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

CBN/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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C. IRVIN MCCLELLAND
OBLON, SPIVAK,
MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Mueller et al. :
Application No. 09/799593 :
Filing or 371(c) Date: 03/07/2001 :
Patent No.: 6740616 :
Issue Date: 05/25/2004 :
Attorney Docket No. :
201877US0DIV :

This is a decision on the "Renewed Petition Under 37 C.F.R. § 3.81(b) and Petition for Certificate of Correction Under 37 C.F.R. § 1.323"[1], filed October 6, 2006, requesting a change in the name of the assignee after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 23, 2005

TO: Petitioners Office

SUBJECT : Request for Certificate of Correction on Patent No.: 6,740,616

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.**

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9309 ext. 116

OK to Enter C. of C.

CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

AU 1791

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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Platon N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P. O. BOX 1404
Alexandria VA 22313-1404

MAILED

NOV 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,872,289 :
Issue Date: March 29, 2005 :
Application No. 09/799,609 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 001425-102 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 15, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 20, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The 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 Terri Johnson at (571) 272-2991.

The patent file is being forwarded to File Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **William C. Rowland, Esq.**
1737 King Street, Suite 500
Alexandria, VA 22314

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

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

Docket Number (Optional): 1001425-000102

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6872289 Application Number 09799609

Issue Date 03/29/2005 Filing Date 03/07/2001

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

Also complete the following information, if applicable

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

09/18/2009 DALLEN 00000089 024800 6872289
01 FC:1599 2620.00 DA

_____ Date

_____ Signature

_____ Typed or Printed Name of Person Signing Certificate

Adjustment date: 11/17/2009 LDIEP1
09/18/2009 DALLEN 00000089 024800 6872289
01 FC:1599 2620.00 CR

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, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**

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

Adjustment date: 11/17/2009 LDIEP1 00000004 024800 6872289
01 FC:1551 980.00 DA
02 FC:1558 1640.00 DA

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☑ $ 980.00	3 ½ yr fee	(1551)	☐ $	3 ½ yr fee	(2551)
☐ $	7 ½ yr fee	(1552)	☐ $	7 ½ yr fee	(2552)
☐ $	11 ½ yr fee	(1553)	☐ $	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 980.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $

☑ Please charge Deposit Account No. 024800 the sum of $ 2,620.00

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 024800

7. OVERPAYMENT

As to any overpayment made please

OR

☑ Credit to Deposit Account No. 24800.

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

William C Rowland

Signature(s) of Petitioner(s)

September 15, 2009

Date

William C. Rowland, Esq..

Typed or printed name(s)

30,888

Registration Number, if applicable

703-836-6620

Telephone Number

1737 King Street,Suite 500

Address

Alexandria, VA 22314

Address

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

ENCLOSURES

☐ Maintenance Fee Payment

☐ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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PAPER NO. 14

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JUL 3 1 2003

OFFICE OF PETITIONS

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

In re Application of
Christelle Staller, et al.
Application No. 09/799,620
Filed: March 7, 2001
Attorney Docket No. 204454US0

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(1), filed July 24, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the application be withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

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

After the application is received in the Office of Petitions the file will be forwarded to Technology Center AU 1773 for consideration of the Amendment filed April 23, 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC88 JUN 29 2004 PATENT & TRADEMARK OFFICE

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PAPER NO.

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JUL 3 1 2003

OFFICE OF PETITIONS

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

In re Application of
Christelle Staller, et al.
Application No. 09/799,620
Filed: March 7, 2001
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Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED: 8 4 03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed:
Type of Resp(s):
Due Date(s):

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060629

DATE : June 29, 2006

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 6777478

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:

(1) With respect to the specification, given that polyvinyl acetate and polyvinyl acetal were both recited in the original specification, patentee's conclusory statement that the former is a "typographical error" is without basis and is deemed unpersuasive. (2) With respect to claim 1, that claim was issued on the basis that it recited polyvinyl acetate not polyvinyl acetal. Patentee's correction, far from being a "typographical error", represents a material change in the scope of patented claim 1. While polyvinyl acetal may be supported as patentee indicates, at the the time of allowance it was not present before the examiner for a proper examination in accordance with 37 CFR 1.104.

Vasu Jagannathan, SPE, 1714

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Commissioner for Patents
United States Patent and Trademark Office
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Stefan Hertmann :
Application No. 09/799,751 : DECISION ON PETITION
Filed: March 5, 2001 :
Attorney Docket No. GR 98 P 2504 P :

This is a decision on the petition, filed March 7, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.[1]

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 27, 2002, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before June 27, 2002.

Petitioner states that a timely reply was mailed via certificate of transmission on April 5, 2002, which included the following papers: amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 5, 2002, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), 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 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

[1] It is noted that petitioner has provided postcard receipt evidence to establish the first petition to withdraw the holding of abandonment was filed on December 9, 2002. A second copy of the petition was filed on December 12, 2005.

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 petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 27, 2002 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on April 5, 2002.

This application is being referred to Technology Center AU 3661 for appropriate action in the normal course of business on the reply received with petition.

Charlema 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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BRINKS HOFER GILSON & LIONE
NBC Tower, Suite 3600
P. O. BOX 10395
CHICAGO IL 60610

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Whiting, et al.	:	DECISION GRANTING STATUS
Application No. 09/799,818	:	UNDER 37 CFR 1.47(a)
Filed: March 5, 2001	:	
Attorney Docket No. 8285/252	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 2, 2001 (certificate of mailing date July 31, 2001).

The petition is **GRANTED.**

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

Pursuant to petitioner's authorization, deposit account no. 23-1925 will be charged a $130.00 Rule 47 petition fee.

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

This application is being referred to Publications Branch to await receipt of the issue fee, publication fee, and a completed PTOL-85B.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 0 5 2007

OFFICE OF PETITIONS

SCOTT E. BOWERS
320 WEST ILLINO98IS AVE.,
APT. 1500
CHICAGO, IL 60610

In re Application of :
Whiting, et al. : LETTER
Application No. 09/799,818 :
Filed: March 5, 2001 :
Attorney Docket No. 8285/252 :

Dear Mr. Bowers:

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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Attorneys of record: BRINKS HOFER GILSON & LIONE
NBC Tower, Suite 3600
P. O. BOX 10395
CHICAGO IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
NBC Tower, Suite 3600
P. O. BOX 10395
CHICAGO IL 60610

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
WHITING et al. : LETTER REGARDING PATENT
Application No. 09/799,818 : TERM ADJUSTMENT
Filed: 03/05/2001 :
Attorney Docket No. 8285-252 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed December 20, 2007. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of 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 **434 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 2, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 454 days. On December 20, 2007, applicants submitted the instant comment.

Applicants have provided no basis for the request for review of the patent term adjustment. A review of the application history confirms that applicants should have been assessed a delay of 20 days pursuant to 37 CFR 1.704(b). A Notice to File Missing Parts of Nonprovisional Application was mailed on April 13, 2001. On August 2, 2001, applicants filed a reply, accompanied by a request for an extension of time for response within the

second month. Thus, applicants failed to engage in reasonable efforts to conclude processing of this application. The period of adjustment should have been reduced by 20 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Nonprovisional Application, July 14, 2001, and ending on the date the reply was filed, August 2, 2001. See 37 CFR 1.704(b).

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **434 days** (669 days of Office delay - 235 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for 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 applicant 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 Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

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

Enclosure: Copy of updated PAIR screen

Day : Friday
Date: 6/20/2008

PALM INTRANET

Time: 13:55:28

PTA Calculations for Application: 09/799818			
Application Filing Date:	03/05/2001	PTO Delay (PTO):	669
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	434
PTO Delay Adjustment:	-20		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	06/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		20	
66	10/02/2007	MAIL NOTICE OF ALLOWANCE			
65	09/28/2007	ISSUE REVISION COMPLETED			
64	09/28/2007	DOCUMENT VERIFICATION			
63	09/28/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	09/28/2007	NOTICE OF ALLOWABILITY			
61	09/13/2007	DATE FORWARDED TO EXAMINER			
60	09/11/2007	RESPONSE AFTER NON-FINAL ACTION			
59	06/15/2007	MAIL NON-FINAL REJECTION			
58	06/11/2007	NON-FINAL REJECTION			
57	04/01/2007	DATE FORWARDED TO EXAMINER			
56	03/26/2007	RESPONSE AFTER NON-FINAL ACTION			
55	12/27/2006	MAIL NON-FINAL REJECTION			
54	12/21/2006	NON-FINAL REJECTION			
53	11/07/2006	DATE FORWARDED TO EXAMINER			
52	10/30/2006	RCE- AF PROCESSED			
51	11/07/2006	DATE FORWARDED TO EXAMINER			
50	11/02/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		90	47
49	11/07/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	11/02/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	05/04/2006	MAIL FINAL REJECTION (PTOL - 326)			
46	05/01/2006	FINAL REJECTION			
45	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	03/02/2006	DATE FORWARDED TO EXAMINER			

43	02/23/2006	RESPONSE AFTER NON-FINAL ACTION		35	41
42	02/23/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	10/19/2005	MAIL NON-FINAL REJECTION			
40	10/17/2005	NON-FINAL REJECTION			
39	07/31/2005	DATE FORWARDED TO EXAMINER			
38	07/21/2005	RESPONSE AFTER NON-FINAL ACTION			
37	04/29/2005	MAIL NON-FINAL REJECTION			
36	04/27/2005	NON-FINAL REJECTION			
35	03/13/2005	DATE FORWARDED TO EXAMINER			
34	02/10/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	03/13/2005	DATE FORWARDED TO EXAMINER			
32	02/10/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		90	19
31	03/13/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	02/10/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	02/10/2005	WORKFLOW INCOMING AMENDMENT IFW			
28	02/10/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
27	11/24/2004	MAIL ADVISORY ACTION (PTOL - 303)			
26	06/04/2004	REFERENCE CAPTURE ON IDS			
25	06/13/2001	REFERENCE CAPTURE ON IDS			
24	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	11/22/2004	ADVISORY ACTION (PTOL-303)			
22	11/09/2004	DATE FORWARDED TO EXAMINER			
21	10/12/2004	AMENDMENT AFTER FINAL REJECTION			
20	10/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	08/12/2004	MAIL FINAL REJECTION (PTOL - 326)			
18	08/09/2004	FINAL REJECTION			
17.7	06/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	15
17	06/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/17/2004	DATE FORWARDED TO EXAMINER			
15	06/04/2004	RESPONSE AFTER NON-FINAL ACTION			
14	06/04/2004	WORKFLOW INCOMING AMENDMENT IFW			

13	03/04/2004	MAIL NON-FINAL REJECTION	669		-1
12	03/03/2004	NON-FINAL REJECTION			
11.7	06/13/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/13/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/12/2001	CASE DOCKETED TO EXAMINER IN GAU			
9	09/21/2001	APPLICATION DISPATCHED FROM OIPE			
8	04/13/2001	APPLICATION IS NOW COMPLETE			
7	09/20/2001	CORRESPONDENCE ADDRESS CHANGE			
5	04/12/2001	CORRESPONDENCE ADDRESS CHANGE			
4	04/12/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/12/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/05/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MAIL Paper No. 5

DEC 11 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue, Box No. 34
Menlo Park, CA 94025

In re Application of :
Yang et al. :
Application No. 09/799,822 :
Filed: March 5, 2001 :
For: DIGITAL PHASE/FREQUENCY DETECTOR :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on October 21, 2002.

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

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

All attorneys of record are removed from record.

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

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

cc: Stephen Warhola
Chief IP Counsel
SKYWORKS SOLUTIONS INC
4311 Jamboree Road Dept 927 K10 051
Newport Beach CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 16 2004

Brown, Raysman, Millstein, Felder & Steiner LLP
900 Third Avenue
New York, NY 10022

MAILED

JUL 16 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Robert Mizrahi
Application No. 09/799,885
Filed: March 5, 2001
For: METHOD AND SYSTEM FOR SELECTIVELY RECORDING CONTENT RELATING TO AN AUDIO/ VISUAL PRESENTATION

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on June 17, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to Item A, it is not clear whether the attorney signing the request is signing to withdrawal on behalf of himself and all the attorneys of record or just the attorneys who signed the request.

All the attorneys given power in the original Declaration/Power of Attorney are not indicated as being withdrawn in the Request for Withdrawal of Attorney. It is suggested that the signing attorney withdraw on behalf of himself and all attorneys of record if that is the intent of the petition.

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

SNM/vdb: 7/13/04

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25TH FLOOR
CHICAGO, IL 60606

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of
Toshiaki Yoshihara, et al
Application No. 09/799,908
Filed: March 6, 2001
Attorney Docket No. 1100.65277

ON PETITION

This is a decision on the petition to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(c)(2), filed April 21, 2004.

The petition is GRANTED.

Petitioner requested that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

In reviewing the record of this application, it is noted that, although the petition to withdraw from issue had not been acted upon by an appropriate official of the U.S. Patent and Trademark Office (USPTO), the USPTO nevertheless has begun processing the RCE filed April 21, 2004. Since the petition is found to be in compliance with 37 CFR 1.313(c)(2), the petition to withdraw from issue is being treated as having been granted prior to the processing of the RCE.

Petitioner is reminded that the issue fee paid, March 8, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 2675 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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PROCESSED BY
PG PUB DIVISION

JUN 28 2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

Applicant: Belli et al.
Appl. No.: 09/799,911
Filing Date: March 7, 2001
Title: THICKENED HAIR COMPOSITION COMPRISING A FIXING POLYMER AND PULVERULENT COMPOUND
Attorney Docket No.: 05725.0862-00
Pub. No.: US 2001/0055580 A1
Pub. Date: December 27, 2001

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 27, 2001 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 17

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Suite 3200
Chicago, IL 60606

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SEP 24 2003

OFFICE OF PETITIONS

In re Application of :
Andrel Gudkov et al. :
Application No. 09/799,946 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 93-254-RR :

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 within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed January 8, 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 April 9, 2003.

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

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 1631 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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OCT 11 2005

OFFICE OF PETITIONS

In re Application of :
Toru Ishikawa :
Application Number: 09/799,961 :
Patent: 6,864,717 :
Attorney Docket Number: 14366 :
Filing Date: June 14, 2000 :
Issue Date: March 22, 2005 :

DECISION ON PETITION

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on June 2, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SUITE 300
GARDEN CITY NY 11530

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Toru Ishikawa	:	CORRECTED
Application Number: 09/799,961	:	DECISION ON PETITION
Patent: 6,864,717	:	
Attorney Docket Number: 14366	:	
Filing Date: March 5, 2001	:	
Issue Date: March 8, 2005	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on June 2, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK NY 10154

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
C. Robert Gasparrini et al. :
Application No. 09/800,000 : DECISION ON PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 0140.-4126US4 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 13, 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 with the 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.

All 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.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 2854 for appropriate action on the amendment filed July 13, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of :
REYNES et al : NOTICE
Application No. 09/800,013 :
Filed: 03/05/2001 :
Attorney Docket No. 1059-01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 2, 2007.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

JAN 28 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
One Commerce Square, Suite 2200
2005 Market Street
Philadelphia, PA 19103

In re Application of :
Arvo Poldmaa :
Application No. 09/800,018 :
Filed: March 5, 2001 :
For: ANCHOR FOR SAFETY ROOPE :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office (USPTO) on November 19, 2002 and supplemented on January 13, 2003.

The petition is **GRANTED.**

A review of the file record reveals that an Office action was mailed on April 16, 2002 wherein a three-month shortened statutory period to respond was set. Since no response was matched with the file, the application was held abandoned in the Notice of Abandonment mailed October 22, 2002.

Applicant asserts that an amendment and a request for a three-month extension of time were filed on October 21, 2002. A postcard receipt bearing an Office receipt date of October 21, 2002 is included with the petition. This is accepted as sufficient evidence of timely receipt of the amendment and request for extension of time.

The application is being forwarded to the to the Supervisory Legal Instruments Examiner to process the amendment and extension of time filed October 21, 2002. Thereafter, it will be forwarded to the examiner for prompt action on the amendment filed October 21, 2002.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

Kjd:1/17/03

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 30, 2006

TO SPE OF : ART UNIT 2155

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/800080 Patent No.: 7,133,911 B1

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

☒ **Approved** [Filed on 12/08/2006 Filed on 01/25/2007] **All** changes apply.

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

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

Comments: Approved with correction (See attachment)

Bharat Barot

BHARAT BAROT
PRIMARY EXAMINER

SUPERVISORY PATENT EXAMINER

2155

SPE **Art Unit**

Filed on 12/08/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,133,911 B1

DATED : November 7, 2006

INVENTOR(S) : Steven J. Schaffer and Jacob Weil

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

Bibliographical cover page, first column: please insert:

-- **Related U.S. Application Data**

Provisional application No. 60/187,135, filed on Mar. 6, 2000. --

MAILING ADDRESS OF SENDER:

PATENT NO. 7,133,911

No, of add'l copies
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⇨ _____

16010/09591/DOCS/1678739.1

Filed on 01/25/2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,133,911

DATED : November 7, 2006

INVENTOR(S) : Steven J. Schaffer and Jacob Weil

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

Column 12, Line 51,

After "A" please insert --computer implemented--

Column 12, Line 52,

After "comprising" please insert --:

generating a ~~detail report~~ chart to monitor a flow in the network;--

BP 01/25/2007

Column 14, Line 1,

After "A" please insert --computer implemented--

Column 14, Line 2,

After "comprising" please insert --:

generating a detail report to monitor a flow in the network;--

MAILING ADDRESS OF SENDER:
Rajiv P. Patel
Fenwick & West LLP
801 California Street
Mountain View, CA 94041

PATENT NO. 7,133,911

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PATENT & TRADEMARK OFFICE
APR 0 8

2151

USSN: 09/800,115

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Agrawal, et al.	Group Art Unit No.: 2151
Serial Number:	09/800,115	Examiner: *Unassigned*
Filing Date:	March 5, 2001	Attorney Docket: ORCL5680
Title:	METHODS AND SYSTEMS FOR PARTIAL PAGE CACHING OF DYNAMICALLY GENERATED CONTENT	

CERTIFICATE OF MAIL

I hereby certify that the within document(s) is/are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231 on April 3, 2003.

Alan W. Young

April 3, 2003
Date

Assistant Commissioner for Patents
Washington, DC 20231

RECEIVED
APR 1 0 2003
Technology Center 2100

TRANSMITTAL LETTER

Sir:

In reference to the above-identified application, please find enclosed the following:

1. Petition to Add Inventors under 37 CFR 1.48
2. Fee payment in the amount of $130.00
3. Declaration by all inventors
4. Statement by added inventor, Lawrence Jacobs
5. Statement by added inventor, Xiang Liu
6. Statement by added inventor, Shehzaad Nakhoda
7. Statement by added inventor, Zheng Zeng
8. Statement by added inventor, Rajiv Mishra
9. Consent of Assignee in accordance with 37 CFR 1.48(a)(4)
10. Postcard

The Commissioner is hereby authorized to charge the amount of **$130.00** to Deposit Account No. **15-06-35** for payment of the applicable petition fee. If any unresolved issues remain, please contact Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

Alan W. Young, Esq.
Reg. No. 37,970
4370 Alpine Road, Suite 106
Portola Valley, CA 94028
Tel: (650) 851-7210
Fax: (650) 851-7232

Date: April 3, 2003

Best Available Copy

APR 0 8 2003
PATENT & TRADEMARK

08/14/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#6

In re application of:	Agrawal, et al.	Group Art Unit No.: 2151
Serial Number:	09/800,115	Examiner: *Unassigned*
Filing Date:	March 5, 2001	Attorney Docket: ORCL5680
Title:	METHODS AND SYSTEMS FOR PARTIAL PAGE CACHING OF DYNAMICALLY GENERATED CONTENT	

CERTIFICATE OF MAIL

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Alan W. Young — Date

RECEIVED
APR 1 0 2003
Technology Center 2100

Assistant Commissioner for Patents
Washington, DC 20231

PETITION UNDER 37 CFR 1.48

Sir:

The inventorship of the above-referenenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. Applicant hereby petitions to correct inventorship to add Lawrence Jacobs, Xiang Liu, Shehzaad Nakhoda, Zheng Zeng and Rajiv Mishra as named inventors in the above-referenced application.

Accompanying this petition is fee payment in the amount of $130.00; a Declaration executed by all inventors in accordance with 37 CFR 1.48(a)(2); a statement by each added inventor in accordance with 37 CFR 1.48(a); and the Consent of Assignee in accordance with 37 CFR 1.48(a)(4).

If any unresolved issues remain, please contact Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

Alan W. Young, Esq.
Reg. No. 37,970
4370 Alpine Road, Suite 106
Portola Valley, CA 94028
Tel: (650) 851-7210
Fax: (650) 851-7232

Date: April 3, 2003

Best Available Copy

OIPE JC#76
APR 08 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.

Attorney Docket No.: ORCL5680

Application No.: 09/800,115

Examiner: To Be Assigned.

Filed: March 5, 2001

Group: 2151

Methods and Systems for Partial Page
Caching of Dynamically Generated Content

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I hereby certify that the within document(s) is/are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on Apr. 3, 2003.

Signature of Person Mailing Document(s)

Apr. 3, 2003
Printed Name
ALAN W. YOUNG

STATEMENT BY ADDED INVENTOR
PETITION UNDER 37 CFR 1.48

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

The inventorship of the above-referenenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. The undersigned hereby petitions to be added as an inventor in the above-referenced application. The error in inventorship occurred without any deceptive intent on my part.

Respectfully submitted,

Lawrence Jacobs
573 Osprey Drive
Redwood City, CA 94065
Post Office Address: Same
Citizenship: US

Date: 10 Dec 01

APR 0 8 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.

Attorney Docket No.: ORCL5680

Application No.: 09/800,115

Examiner: To Be Assigned.

Filed: March 5, 2001

Group: 2151

Methods and Systems for Partial Page
Caching of Dynamically Generated Content

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Signature of Person Mailing Document(s)

Apr. 3, 2003
Printed Name
ALAN W. YOUNG

STATEMENT BY ADDED INVENTOR
PETITION UNDER 37 CFR 1.48

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

The inventorship of the above-referenenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. The undersigned hereby petitions to be added as an inventor in the above-referenced application. The error in inventorship occurred without any deceptive intent on my part.

Respectfully submitted,

Xiang Liu
150A West Hillsdale Boulevard
San Mateo, CA 94403
Post Office Address: Same
Citizenship: China

Date: 12/10/2001

OIPE JC176 APR 08 2003 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.

Attorney Docket No.: ORCL5680

Application No.: 09/800,115

Examiner: To Be Assigned.

Filed: March 5, 2001

Group: 2151

Methods and Systems for Partial Page Caching of Dynamically Generated Content

CERTIFICATE OF MAIL

I hereby certify that the within document(s) is/are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on Apr. 3, 2003

Alan W. Young

Apr. 3, 2003

Printed Name

ALAN W. YOUNG

STATEMENT BY ADDED INVENTOR
PETITION UNDER 37 CFR 1.48

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

The inventorship of the above-referenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. The undersigned hereby petitions to be added as an inventor in the above-referenced application. The error in inventorship occurred without any deceptive intent on my part.

Respectfully submitted,

Shahzad Nakhoda
455 Grant Avenue, No. 14
Palo Alto, CA 94306
Post Office Address: Same
Citizenship: Pakistan

Date: 9/25/02

OIPE JC#76
APR 0 8 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.

Attorney Docket No.: ORCL5680

Application No.: 09/800,115

Examiner: To Be Assigned.

Filed: March 5, 2001

Group: 2151

Methods and Systems for Partial Page
Caching of Dynamically Generated Content

CERTIFICATE OF MAIL
I hereby certify that the within document(s) is/are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on Apr. 3, 2003.

Signature of Person Mailing Document(s)

April 3, 2003
Printed Name
Alan W. Young

STATEMENT BY ADDED INVENTOR
PETITION UNDER 37 CFR 1.48

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

The inventorship of the above-referenenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. The undersigned hereby petitions to be added as an inventor in the above-referenced application. The error in inventorship occurred without any deceptive intent on my part.

Respectfully submitted,

Zheng Zeng
1139 Blythe Street
Foster City, CA 94404
Post Office Address: Same
Citizenship: China

Date: 12/10/2001

OIPE JC16
APR 08 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.	Attorney Docket No.: ORCL5680
Application No.: 09/800,115	Examiner: To Be Assigned.
Filed: March 5, 2001	Group: 2151

Methods and Systems for Partial Page
Caching of Dynamically Generated Content

CERTIFICATE OF MAIL
I hereby certify that the within document(s) is/are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on Apr. 3, 2003.

Alan W. Young — Signature of Person Mailing Document(s)

April 3, 2003 Alan W. Young — Printed Name

STATEMENT BY ADDED INVENTOR
PETITION UNDER 37 CFR 1.48

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

The inventorship of the above-referenenced application was improperly set forth in the application filing on March 5, 2001, and in the combined Declaration/Power of Attorney subsequently filed on May 14, 2001. The undersigned hereby petitions to be added as an inventor in the above-referenced application. The error in inventorship occurred without any deceptive intent on my part.

Respectfully submitted,

Rajiv Kumar Mishra

Rajiv Mishra
1170 Foster City Boulevard, No. 204
Foster City, CA 94404
Post Office Address: Same
Citizenship: India

Date: 12/10/2001

OIPE JC
APR 08 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: AGRAWAL, et al.

Attorney Docket No.: ORCL5680

Application No.: 09/800,115

Examiner: To Be Assigned.

Filed: March 5, 2001

Group: 2151

Methods and Systems for Partial Page
Caching of Dynamically Generated Content

CERTIFICATE OF MAIL

I hereby certify that the within document(s) is/are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on Apr. 3, 2003.

Signature of Person Mailing Document(s)

Apr. 3, 2003 ALAN W. YOUNG
Printed Name

RECEIVED
APR 10 2003
Technology Center 2100

CONSENT OF ASSIGNEE UNDER 37 CFR §1.48(a)(4)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Oracle International Corporation, the sole assignee of the above-identified application, hereby consents to adding Lawrence Jacobs; Xiang Liu; Shehzaad Nakhoda; Zheng Zeng; and Rajiv Mishra, as inventors in the above-identified application. The undersigned, Sanjay Prasad, is Vice President of the assignee and is authorized to act on its behalf. In accordance with 37 CFR §3.73 and MPEP §324, the assignee's ownership of the above-identified application is set forth in the assignment executed for this application on February 18, 2003, a copy of which is included herewith.

Respectfully submitted,

Sanjay Prasad
Vice President
ORACLE INTERNATIONAL CORPORATION
500 Oracle Parkway
Redwood Shores, CA 94065

Date: 2/25/03

OIPE JC176
APR 08 2003
PATENT & TRADEMARK OFFICE

#7
08/14/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION

Note attached Fee Petition Code 105 & 130.00

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled:

METHODS AND SYSTEMS FOR PARTIAL PAGE CACHING
OF DYNAMICALLY GENERATED CONTENT

RECEIVED
APR 10 2003
Technology Center 2100

the specification of which: *(check one)*

☒ REGULAR
☐ DESIGN APPLICATION

☐ is attached hereto.

☒ was filed on March 5, 2001 and assigned application Serial No. 09/800,115.

☐ was described and claimed in International application No. _____ filed on _____ and as amended on _____ (if any).

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understood the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information

☒ Which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56

☒ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent, and

☐ In compliance with this duty there is attached an information disclosure statement in accordance with 37 CFR 1.98.

PRIORITY CLAIM

☐ I hereby claim foreign priority benefits under 35 USC 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION(S)

Country	Application Number	Date of Filing (day, month, year)	Priority Claimed

(Complete this part only if this is a continuing application.)

☐ I hereby claim the benefit under 35 USC 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 USC 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No. :
Filing Date :

Status-patented, pending, abandoned: _____

☒ I hereby claim benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below:

Application Serial No. : **60/187,925**
Filing Date : **March 8, 2000**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: **AGRAWAL, Alok**
(Family name, given name)

Inventor's signature: Alok Agrawal Date: 9/18/02
Residence: ~~8 Peabody Terrace, Apt. 21 Cambridge, MA 02138~~ 201 E 27th Street, #9L New York, NY 10128
PO Address: Same
Citizenship: India

Full name of inventor: **VENKETARAMANI, Ramkumar**
(Family name, given name)

Inventor's signature: V. Ramkumar Date: 9/23/02
Residence: ~~659 Catamaran #3 Foster City, CA 94404~~ 982 La Mesa Terrace #B, Sunnyvale, CA 94086
PO Address: Same
Citizenship: India

Full name of inventor: **LOWENTHAL, Leslie Bruce**
(Family name, given name)

Inventor's signature: Bruce Lowenthal Date: 13 Dec 02
Residence: 24 Hollywood Avenue
Los Gatos, CA 95032
PO Address: Same
Citizenship: US

Full name of inventor: **JACOBS, Lawrence**
(Family name, given name)

Inventor's signature: [signature] Date: 10 Dec
Residence: 573 Osprey Drive
Redwood City, CA 94065
PO Address: Same
Citizenship: US

Full name of inventor: LIU, Xiang
(Family name, given name)

Inventor's signature:
Residence: 156A West Hillsdale Boulevard
San Mateo, CA 94403
PO Address: Same
Citizenship: China
Date: 12/10/2001

Full name of inventor: NAKHODA, Shehzaad
(Family name, given name)

Inventor's signature:
Residence: 455 Grant Avenue, No. 14
Palo Alto, CA 94306
PO Address: Same
Citizenship: Pakistan
Date: 9/25/2002

Full name of inventor: ZENG, Zheng
(Family name, given name)

Inventor's signature:
Residence: 1139 Blythe Street
Foster City, CA 94404
PO Address: Same
Citizenship: China
Date: 12/10/01

Full name of inventor: MISHRA, Rajiv
(Family name, given name)

Inventor's signature: Rajiv Kumar Mishra
Residence: 1170 Foster City Boulevard, No. 204
Foster City, CA 94404
PO Address: Same
Citizenship: India
Date: 12/10/2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Peter J. Butch III, Esq.
Synnestvedt & Lecher LLP
2600 Aramark Drive
1101 Market Street
Philadelphia, PA. 19107-2950

Date: May 15, 2003
Application No. 09/800,127
Filed: March 6, 2001
Subject: Magnesium-Substituted Hydroxyapatite

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed October 30, 2002, under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed , it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the addition of **CHUN-WEI CHEN**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
CM1- 2B01
703-308-2927

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 3 1 2006

OFFICE OF PETITIONS

COATS & BENNETT
P.O. BOX 5
RALEIGH NC 27602

In re Application of :
Paul W. Dent et al :
Application No. 09/800,145 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 4015-815 :

This is a decision on the petition, filed March 30, 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 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2135 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : March 31, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
MAR 31 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Paul W. Dent et al
Application No. :09/800,145
Filed :March 6, 2001

The above-identified application has been assigned Patent No. 7,031,467 and an issue date of April 18, 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 April 18, 2006:

> "All reference to Patent No. 7,031,467 to Paul W. Dent et al of North Carolina for RECURSIVE CRYPOTACCELERATOR AND RECURSIVE VHDL DESIGN OF LOGIC CIRCUITS appearing in the Official Gazette of April 18, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 19

FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Cho et al. :
Application No. 09/800,195 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 09143-017001 :

This is a decision on the petition, filed November 3, 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 March 6, 2002. 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 Office records indicate that the application published on December 19, 2002.

This application is being forwarded to Technology Center Art Unit 1615.

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
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AMB

Paper No. 10

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JUN 27 2003

OFFICE OF PETITIONS

Peter A. Businger, Esq.
344 Valleyscent Avenue
Scotch Plains, NJ 07076-1170

In re Application of :
Coleman :
Application No. 09/800,213 : ON PETITION
Filed: March 6, 2001 :
For: SEMICONDUCTOR FABRICATION AND :
STRUCTURE FOR FIELD-EFFECT AND :
BIPOLAR TRANSISTOR DEVICES :

This decision is in response to the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The application became abandoned July 28, 2002 for failure to timely submit a proper reply to the Office communication mailed June 27, 2002 which set a one (1) month shortened statutory period for reply. No extension of time in accordance with 37 CFR 1.136(a) was obtained. Notice of Abandonment was mailed January 14, 2003.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Payment of the petition fee for consideration under 37 CFR 1.137(b) is a prerequisite for treat on the merits of the instant petition. The Office will not reach the merits of any petition under 37 CFR 1.137(b) lacking the requisite fee. The current small entity fee required for a petition under 37 CFR 1.137(b) is $650.00. Petitioner has to date submitted $640.00.

Accordingly, the instant petition is **DISMISSED**.

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

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

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916

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

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, D.H.L., etc.) 2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 12

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JUL 1 6 2003

OFFICE OF PETITIONS

Peter A. Businger, Esq.
344 Valleyscent Avenue
Scotch Plains, NJ 07076-1170

In re Application of :
Coleman :
Application No. 09/800,213 : ON PETITION
Filed: March 6, 2001 :
For: SEMICONDUCTOR FABRICATION AND :
STRUCTURE FOR FIELD-EFFECT AND :
BIPOLAR TRANSISTOR DEVICES :

This decision is in response to the renewed petition under 37 CFR 1.137(b), filed July 7, 2003, to revive the above-identified application.

The application became abandoned July 28, 2002 for failure to timely submit a proper reply to the Office communication mailed June 27, 2002 which set a one (1) month shortened statutory period for reply. No extension of time in accordance with 37 CFR 1.136(a) was obtained. Notice of Abandonment was mailed January 14, 2003. A petition under 37 CFR 1.137(b) was filed June 16, 2003 and dismissed June 27, 2003.

The remaining petition fee has been charged to petitioner's credit card as authorized in the instant renewed petition.

This application is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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Nixon Peabody, LLP
401 9th Street, NW
Suite 900
Washington D.C. 20004-2128

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of
Peter E. Prevelige, Jr.

Application No. 09/800,240
Filed: March 6, 2001
Attorney Docket No. 057909-11000

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 18, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **change of employer**, do not meet any the conditions set forth in 37 CFR 10.40.

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 Terri Williams at 571-272-2991.

for 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
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KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Publicover et al. :
Application No. 09/800,273 :
Filed: March 5, 2001 : ON PETITION
Attorney Docket Number: :
5578-58206/RJP :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed December 14, 2005. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed May 20, 2005. 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 August 21, 2005. A Notice of Abandonment was mailed on November 29, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant asserts that a timely reply was filed on November 21, 2005. In support of this assertion, Applicant files a copy of a Request for Continued Examination ("RCE") Transmittal and an Amendment. A review of the RCE and Amendment reveal that they contain a certificate of mailing under 37 CFR 1.8 dated November 21, 2005, executed by Petitioner, and included the appropriate extension of time and RCE fees.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
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

February 13, 2002

Paper # 3

Caterpillar Inc.
100 NE Adams Street
Patent Department
Peoria IL 61629-6490

In re Application of:	Kunzeman, et.al.	: DECISION GRANTING
Application No.:	60/253964	: PETITION
Filed:	11/29/00	:
Attorney Docket No.:	00-693L	:

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on March 6, 2001, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is 09/800284. The filing receipt for the non-provisional application is enclosed.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 5

SEP 04 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Joseph E. Chovanes
CyberSoft, Inc.
1508 Butler Pike
Conshohocken PA 19428-1322

In re Application of: Peter V. Radatti et al.
Application No.: 09/800,314
Filed: March 06, 2001
For: APPARATUS AND METHODS FOR INTERCEPTING, EXAMINING AND CONTROLLING CODE, DATA AND FILES AND THEIR TRANSFER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed July 14, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the related art is submitted" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that:

-The Applicant's submission of all of the prior art abstracts does not provide a detailed discussion of the references. The term "abstract" means "a summary of points... usually presented in skeletal form" (see Webster's Ninth New Collegiate Dictionary); therefore, the submission of the abstracts of the references does not meet the requirement of submission of 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. It is also noted that Applicant submitted a copy of US Patent. No. 5,832,228, instead of 5,832,208 as indicated on list of the cited art. Thus, there was no submission of a copy of US Patent. No. 5,832,208 for the USPTO to consider.

-Applicant's statements, such as "there appears to be no mention of a parser," "Applicant is unable to locate," "[the reference] appears to combine packets," or "[the reference] appears to scan each character...," do not meet the requirement of item (E) (See the Petition, p. 13, lines 12-13, 15-16, 19, and 21; p. 14, lines 4, 9, 14 and 19; p. 15, lines 10-13 and 15). The use of the term "appears" in the Applicant's discussion implies some doubt about the existence of the claim elements in the references; and the term "unable to locate" in the Applicant's discussion implies that the claim elements may be in the references, but applicant is not able to locate them. These terms do not meet the requirement of item (E) because they do not clearly state that the particular claim elements are not disclosed in the references.

-Applicant's general statement "[n]one of these parser related patents... as in claim 1 of the present invention" on page 15, lines 17-20 of the Petition does not meet the requirement of item (E) because there is no discussion, with the particularity required by 37 CFR 1.111(b) and (c), of how the subject matter of claim 1 is patentable over specific references (*e.g.*, there is no comparison between the terms of claim 1 and the disclosure of each of 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.

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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Technology Center 2100

Paper No. 8

Joseph E. Chovanes
CyberSoft, Inc.
1508 Butler Pike
Conshohocken PA 19428-1322

In re Application of: Peter V. Radatti et al.
Application No.: 09/800,314
Filed: March 06, 2001
For: APPARATUS AND METHODS FOR INTERCEPTING, EXAMINING AND CONTROLLING CODE, DATA AND FILES AND THEIR TRANSFER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed July 14, 2003 and supplemented by Petitioner's submission dated November 04, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Petitioner's submission dated November 04, 2003 cures the deficiencies in the original Petition noted in the decision mailed September 04, 2003. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.

Bot LeDynh

Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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SEP 04 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 5

Joseph E. Chovanes
CyberSoft, Inc.
1508 Butler Pike
Conshohocken PA 19428-1322

In re Application of: Peter V. Radatti et al.
Application No.: 09/800,328
Filed: March 06, 2001
For: APPARATUS AND METHODS FOR INTERCEPTING, EXAMINING AND CONTROLLING CODE, DATA AND FILES AND THEIR TRANSFER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed July 14, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the related art is submitted" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that:

-The Applicant's submission of all of the prior art abstracts and the two-lined description of "Redmond" article does not provide a detailed discussion of the references. The term "abstract" means "a summary of points... usually presented in skeletal form" (see Webster's Ninth New Collegiate Dictionary); therefore, Applicant's submission of the discussion of the references does not meet the requirement of submission of 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 statements, such as "there appears to be no mention of a parser and decryptor," "appears to combine," "appear to disclose," "appear to use," "appear to provide," "unable to locate ... a parser and decryptor," or the like, do not meet the requirement of item (E) (See the Petition, p. 17, lines 2-3, 5-6, 12-13, 18-19; p. 18, lines 1-2, 6-7, 11-12, and 16-17; p. 19, lines 2, 5 and 8, for example). The term "appears" implies some doubt about the existence of the claim elements in the references; and the term "unable to locate" implies that the claim elements may be in the references, but applicant is not able to locate them. These terms do not meet the requirement of item (E) because they do not clearly state that the particular claim elements are not disclosed in the references.

-Applicant's statement with respect to claim 1 is moot because claim 1 was canceled (see the Petition, p.19 , lines 11-13).

- With respect to method claims 8-17, Applicant's general statement "none of the related art known or discovered by Applicants teaches or suggests this apparatus or method" and other general statements, without particularly pointing out (for example, comparison between a specific reference with claim limitations) how the subject matters of claims 8-17 are patentable over the references, do not comply with item (E).

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.

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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Paper No. 7

NOV 2 5 2003

Technology Center 2100

Joseph E. Chovanes
CyberSoft, Inc.
1508 Butler Pike
Conshohocken PA 19428-1322

In re Application of: Peter V. Radatti et al.
Application No.: 09/800,328
Filed: March 06, 2001
For: APPARATUS AND METHODS FOR INTERCEPTING, EXAMINING AND CONTROLLING CODE, DATA AND FILES AND THEIR TRANSFER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed July 14, 2003 and supplemented by Petitioner's submission dated November 04, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Petitioner's submission dated November 04, 2003 cures the deficiencies in the original Petition noted in the decision mailed September 04, 2003. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.

Bot LeDynh
Special Programs Examiner

Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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Paper No. 14

Jackson Walker
112 E. Pecan Street, Suite 2100
San Antonio, TX 78205

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
J. Ronald Wilk :
Application No. 09/800,360 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. P-121944.0002.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 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 in reply to the non-final Office action mailed November 21, 2001, which set a shortened statutory reply period of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on February 22, 2002.

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

The application file is being forwarded to Technology Center AU 1616 for further processing.

Latrice Bond

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,658,414	2003-12-02	09/800,371	2001-03-06	1381/3

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	/Gregory A. Hunt/	Date (YYYY-MM-DD)	2008-01-28
Name	Gregory A. Hunt	Registration Number	41085

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. 6658414
Issue Date: December 2,2003
Application No. 09800371
Filed: March 6,2001
Attorney Docket No. 1381/3

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

This is a decision on the electronic petition, filed January 28,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 28,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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Alexandria, VA 22313-1450
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Paper No.

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

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NOV 22 2006
OFFICE OF PETITIONS

In re Application of :
Breck et al. : DECISION ON PETITION
Application No. 09/800,461 :
Filed: March 7, 2001 :
Atty Docket No. 40655.0700 :

This is a decision on the PETITION UNDER 37 C.F.R. §1.137(a) TO REVIVE UNAVOIDABLY ABANDONED APPLICATION, filed September 7, 2006, in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed November 17, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No proper reply having been received and no extensions of time obtained, the application became abandoned effective February 18, 2006. A Notice of Abandonment was mailed on June 29, 2006. (Applicants timely filed a response to the non-final Office action mailed June 6, 2005. The Notice of Abandonment erred in noting a failure to respond to the June 6, 2005 Office action).

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner asserts the abandonment was unavoidable because the Office action mailed November 17, 2005, was never received by Applicants' attorneys.

In support thereof, practitioner states that based on a review of the relevant file and docket records the Office action was never received. Petitioner submits a declaration of facts of Mark Chanderdatt, docketing supervisor, and a copy of the docket record where the Office action would have been entered had it been received.

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

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

Technology Center AU 3621 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 7, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Lydia Breck	: DECISION ON REQUEST FOR
Patent Number	: 7627531	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/800,461	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2681** 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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J Rodman Steele Jr
Akerman Senterfitt & Eidson P A
222 Lakeview Avenue Suite 400
P O Box 3188
West Palm Beach, FL 33402-3188

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OFFICE OF PETITIONS

In re Application of :
Nadia Avalle :
Application No. 09/800463 :
Filing or 371(c) Date: 03/08/2001 :
Patent No.: 6893646 :
Issue Date: 05/17/2005 :
Attorney Docket No. :
P66420US0 :

This is a decision on the "Petition to Correct Assignee Under 37 C.F.R. §3.81(b)"[1], filed October 25, 2006, requesting a change in the name of the assignee after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

NOV 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Sravanapudi et al. :
Application No. 09/800,509 : DECISION ON REQUEST TO
Filed: March 8, 2001 : WITHDRAW AS ATTORNEY
For: MULTIMODAL INFORMATION SERVICES :

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on September 24, 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,
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf,
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any 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), 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 of Customer Nos. 00758 are removed from record. The remaining list of attorneys as appointed in paper No. 3, Revocation and Substitute Power of Attorney (filed May 8, 2003) remain active.

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.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the Technology Center's central files to await action by the examiner in appropriate time.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: Johnathan Aberman
Fish & Richardson P.C.
1425 K Street, N. W., Suite 1100
Washington, D.C. 20005

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United States Patent and Trademark Office
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Paper No. 12

Michael J. Mallie
Blakely, Sokoloff, Taylor and Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Edward L. Schwartz, et al. :
Application No. 09/800,530 :
Filed: March 6, 2001 :
Attorney Docket No. 74451P127D10 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 23, 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 11, 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. The instant petition is being construed as a Request to Rescind the Nonpublication Request. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

Hewlett Packard Company
Intellectual Property Administration
PO Box 272400
Fort Collins, CO 80527-2400

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of :
Taussig et al. :
Application No. 09/800,559 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 10004568-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 16, 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 April 17, 2003.

The application file is being forwarded to Technology Center AU 2876 for further processing.

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

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

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APR 19 2004

Director's Office
Group 3700

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Paper No.

In re Application of
Tetsuya Sada et al
Serial No. : 09/800,585
Filed : March 8, 2001
For : Cooling Device and Cooling Method

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT
:

This is a decision on petitioner's request filed September 26, 2003, to review the holding of abandonment mailed August 7, 2003, for failure to respond to the Office action mailed December 17, 2002. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, and a copy of a PTO stamped receipt dated January 9, 2003 as evidence that a response was timely filed.

In view of the above, the Notice of Abandonment mailed August 7, 2003, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for consideration of the response filed January 9, 2003.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Groups 3740 and 3750
Phone: (703) 308-0975

ak/04/14/04

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OFFICE OF PETITIONS

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Patent No. 7,105,194 :
Issued: September 12, 2006 : LETTER REGARDING PTA AND
Application No. 09/800,624 : CERTIFICATE OF CORRECTION
Filed: March 7, 2001 :
Atty. Dkt. No.: GRISA/710 :

This letter is in response to the "PETITION TO CORRECTION PATENT TERM ADJUSTMENT," filed October 4, 2006. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,105,194 on September 12, 2006. The patent issued with a patent term adjustment (PTA) of 115 days. Patentees indicate that the adjustment is thought to be longer than appropriate. Patentees suggest the error may be in connection with the request for continued examination (RCE) filed October 29, 2004.

A review of the calculation of PTA reveals that the correct determination is at the time of issuance is 91 days.

An adjustment of 154 days can be attributed to the Office under 37 CFR 1.702 (148 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on October 2, 2002 and six days in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the final Office action on May 30, 2003).

There were no further adjustments under 37 CFR 1.702 attributable to Office delays. An adjustment of four days was errantly entered in connection with the mailing of the Board decision on August 31, 2004. The provisions of 37 CFR 1.702 do not prescribe a time period by which a Board decision in response to an appeal must be rendered.

An adjustment of 24 days was errantly entered in connection with the mailing of the restriction requirement on January 24, 2005. This adjustment is inappropriate because the Office replied within four months of the date that the RCE was filed on October 29, 2004. Thus, adjustment pursuant to 37 CFR 1.703(a)(5) is inappropriate.

However, the adjustment totaling 154 days is less than the period of adjustment under 37 CFR 1.702(b) for failure to issue the patent within three years of the date of filing. The period of adjustment under 37 CFR 1.702(b), totaling 236 days, commenced March 8, 2004, the day after the date that is three years after the date that the application was filed, and ended October 29, 2004, the date that the

request for continued examination was filed. *See*, 37 CFR 1.703(b)(1), 35 USC 154(b)(1)(B), and *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The adjustment totaling 236 days is properly reduced 145 days (reduction of 22 days in accordance with 37 CFR 1.704(b) in connection with the reply filed January 24, 2003; reduction of five days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed January 29, 2003; and reduction of 76 days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed November 14, 2003).

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 91 days (adjustments totaling 236 days less reductions totaling 145 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 91 days.

Applicants are given 30 days to file a request for reconsideration of the instant decision. No additional time will be granted under 37 CFR 1.136.

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

Kery A. Fries

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,105,194 B2
DATED	:	September 12, 2006
INVENTOR(S)	:	Gassenmeier, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 115 days

Delete the phrase "by 115 days" and insert – by 91 days--

Day : Wednesday

PALM INTRANET

Date: 1/2/2008
Time: 10:15:35

PTA Calculations for Application: 09/800624			
Application Filing Date:	03/07/2001	PTO Delay (PTO):	260
Issue Date of Patent:	09/12/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	145
Post-Issue Petitions:	0	Total PTA (days):	91
PTO Delay Adjustment:	-24		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
76	01/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
72.5	08/23/2006	PTA 36 MONTHS	78		
72	09/12/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
71	08/09/2006	EXPORT TO FINAL DATA CAPTURE			
70	08/08/2006	FINISHED INITIAL DATA CAPTURE			
69	08/08/2006	DISPATCH TO FDC			
68	08/03/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
67	08/02/2006	ISSUE FEE PAYMENT VERIFIED			
66	05/12/2006	EXPORT TO INITIAL DATA CAPTURE			
65	05/08/2006	MAIL NOTICE OF ALLOWANCE			
64	03/15/2006	ISSUE REVISION COMPLETED			
63	03/15/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	03/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
61	03/15/2006	NOTICE OF ALLOWABILITY			
60	02/01/2006	DATE FORWARDED TO EXAMINER			
59	01/30/2006	AMENDMENT AFTER FINAL REJECTION			
58	11/29/2005	MAIL FINAL REJECTION (PTOL - 326)			
57	11/25/2005	FINAL REJECTION			
56	10/29/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
55	09/21/2005	DATE FORWARDED TO EXAMINER			
54	09/15/2005	RESPONSE AFTER NON-FINAL ACTION		42	50
53	09/15/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

52	09/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	08/31/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	05/04/2005	MAIL NON-FINAL REJECTION			
49	05/03/2005	NON-FINAL REJECTION			
48	02/24/2005	DATE FORWARDED TO EXAMINER			
47	02/21/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
46	01/24/2005	MAIL RESTRICTION REQUIREMENT	24		38
45	01/21/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
44	11/16/2004	DATE FORWARDED TO EXAMINER			
43	10/29/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	11/16/2004	DATE FORWARDED TO EXAMINER			
41	10/29/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	11/16/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	10/29/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	08/31/2004	MAIL BPAI DECISION ON APPEAL - AFFIRMED	4		30
37	08/31/2004	BPAI DECISION - EXAMINER AFFIRMED			
36	08/05/2004	DOCKETING NOTICE MAILED TO APPELLANT			
35	08/05/2004	ASSIGNMENT OF APPEAL NUMBER			
34	07/19/2004	APPEAL AWAITING BPAI DOCKETING			
33	06/03/2004	MAIL REPLY BRIEF NOTED BY EXAMINER			
32	06/01/2004	REPLY BRIEF NOTED BY EXAMINER			
31	05/05/2004	DATE FORWARDED TO EXAMINER			
30	04/27/2004	REPLY BRIEF FILED			
29	04/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
28	04/08/2004	MAIL EXAMINER'S ANSWER			
27	04/05/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
26	01/21/2004	DATE FORWARDED TO EXAMINER			
25	01/15/2004	APPEAL BRIEF FILED			
24	01/15/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	11/14/2003	NOTICE OF APPEAL FILED		76	16
22	11/14/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/15/2003	MAIL ADVISORY ACTION (PTOL - 303)			

20	10/14/2003	ADVISORY ACTION (PTOL-303)			
19	08/27/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
18	10/06/2003	DATE FORWARDED TO EXAMINER			
17	08/27/2003	AMENDMENT AFTER FINAL REJECTION			
16	05/30/2003	MAIL FINAL REJECTION (PTOL - 326)	6		11
15	05/30/2003	FINAL REJECTION			
14	03/21/2003	DATE FORWARDED TO EXAMINER			
13	01/29/2003	SUPPLEMENTAL RESPONSE		5	11
12	03/21/2003	DATE FORWARDED TO EXAMINER			
11	01/24/2003	RESPONSE AFTER NON-FINAL ACTION		22	9
10	01/24/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
9	10/02/2002	MAIL NON-FINAL REJECTION	148		-1
8	09/30/2002	NON-FINAL REJECTION			
7	01/07/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	09/10/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	10/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	04/20/2001	APPLICATION DISPATCHED FROM OIPE			
3	04/18/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/27/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/07/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Paper No. 12

Michael J. Mallie
Blakely, Sokoloff, Taylor & Zafman
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Edward L. Schwartz, et al. :
Application No. 09/800,633 :
Filed: March 6, 2001 :
Attorney Docket No. 74451.P127D9 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 23, 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 11, 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 November 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL J. MALLIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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MAR 2 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Boliek et al.
Application No. 09/800,633
Filed: March 6, 2001
Attorney Docket No. 074451.P127D9

This is a decision on the petition under 37 CFR 1.182, filed February 18, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Martin Boliek
2. Michael J. Gormish
3. Edward L. Schwartz
4. Kok Gi Wu

Effective on December 8, 2004, the petition fee increased to $400.00. Accordingly, an additional $270.00 was charged to petitioner's deposit account as authorized.

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

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

In re Application of :
Ranjan Prasad et al :
Application No. 09/800,646 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 50325-0508 :

This is a decision on the petition, filed August 1, 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 July 21, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 03-02

Paper No. 6

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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MAR 19 2002

OFFICE OF PETITIONS

In re Application of	:	
Aizawa et al.	:	
Application No. 09/800,670	:	DECISION REFUSING STATUS
Filed: 8 March, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. Q63394	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 3 December, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed as a reissue application on 8 March, 2001, without an executed oath or declaration. Accordingly, on 2 July, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Reissue Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 3 December, 2001,[1] petitioners filed a reissue declaration naming Masuo Aizawa, Yoshihito Ikariyama, Eiry Kobatake, Minoru Ogasawara, and Mitsunao Tanaka as joint

[1]Since 2 December, 2001, fell on a Sunday, the response filed on 3 December, 2001, was timely filed.

inventors and signed by joint inventors Aizawa, Kobatake, Ogasawara, and Tanaka on behalf of themselves and joint inventor Ikariyama, accompanied by the petition fee, late filing surchage, and a three (3) month extension of time.

Petitioners assert that joint inventor Ikariyama is deceased and that a letter was sent to his legal representative (widow) at her last known address, but that the letter was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (2).

In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative(s) of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. A new oath or declaration in compliance with 37 CFR 1.63, 1.64, and 1.175 containing the information described in this paragraph and signed by all of the signing inventors, is required.

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 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 8

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JUN 03 2002

OFFICE OF PETITIONS

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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CANCELLED
MAY 03 2002
OFFICE OF PETITIONS

In re Application of :
Aizawa et al. :
Application No. 09/800,670 : DECISION ACCORDING STATUS
Filed: 8 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. Q63394 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 20 May, 2002.

The petition is **GRANTED**.

Petitioners have shown that the legal representative of the deceased inventor could not be located despite diligent efforts. Petitioners have also provided a copy of an envelope showing that a letter sent to the last known address of the legal representative of the deceased inventor was returned as undeliverable by the Japanese post office. Additionally, the declaration of Kenichi Morita establishes that despite efforts including contacting the deceased inventor's former employer, his legal representative (his widow) could not be located.

The above-identified reissue 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 legal representative at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 06-02

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JUN 03 2002

OFFICE OF PETITIONS

Michiko Ikariyama
10-36, Okayama 2-chome, Meguro-ku
Tokyo 152
JAPAN

COPY MAILED
CANCELLED
MAR 03 2002

OFFICE OF PETITIONS

In re Application of
Aizawa et al.
Application No. 09/800,670
Filed: 8 March, 2001
For: LUMINESCENCE BY REACTING AN ACRIDINIUM ESTER WITH SUPEROXIDE

Dear Ms. Ikariyama:

You are named as the legal representative of the deceased joint inventor in the above identified United States reissue 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 the deceased inventor will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. 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 D Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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

Blakely, Sokoloff, Taylor and Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Edward L. Schwartz, et al. :
Application No. 09/800,687 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 074451.P127D6 :

This is a decision on the petition, filed June 23, 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 11, 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 instant petition is being construed as a Request to Rescind the Nonpublication Request. 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 November 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

McDonnell, Boehnen, Hulbert and Berghoff
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

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JUN 2 0 2002

OFFICE OF PETITIONS

In re Application of :
Penny Towne, et al. :
Application No. 09/800,689 : DECISION GRANTING PETITION
Filed: March 7, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 98-541-K :

This is a decision on the petition filed May 20, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on March 7, 2002. 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 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 26, 2002 accompanies this decision on petition.

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

The application file is being forwarded to Technology Center Art Unit 1743 to await a reply to the non-final Office action mailed May 1, 2002. Failure to timely reply to the non-final Office action will result in the abandonment of the application.

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
www.uspto.gov

Paper No. 11

PERKINS COIE
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Robert Coggeshall :
Application No. 09/800,755 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 248588008US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2003, 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 March 4, 2002. 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 October 23, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Korhonen, Aki :
Application No. 09/800,764 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. PCDR-01004US0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed March 1, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 2, 2004.

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

This matter is being referred to Technology Center 2100 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions
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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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Korhonen, Aki :
Application No. 09/800,764 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. PCDR-01004US0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed March 1, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 2, 2004.

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

This matter is being referred to Technology Center 2100 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/24/2010

Applicant	: Wei-Le Shen	: DECISION ON REQUEST FOR
Patent Number	: 6700932	: RECALCULATION of PATENT
Issue Date	: 03/02/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/800,765	: OF WYETH
Filed	: 03/06/2001	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T CORP.
P.O. Box 4110
Middletown, NJ 07748

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of
Mark A. Jones
Application No. 09/800,767
Filed: March 8, 2001
Attorney Docket No. 2000-0164

For: METHOD AND APPARATUS FOR USING XML FOR BOTH A PROTOCOL LAYER AND APPLICATION LAYER

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. 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 Peter Wong 571-272-1400.

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

Peter Wong,
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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

UR
Paper NO. 8

Mailed JUL - 3 2002

In re Application of
John C. Evans
Serial Number: 09/800,792
Filed: March 07, 2001
For: COTTON CANDY MARKETING AND PACKAGING SYSTEM AND RELATED PRODUCT

DECISION ON PETITION UNDER M.P.E.P. 708.02, II

This is a decision on the Petition to Make Special because of Actual Infringement (37 C.F.R. 1.102 and MPEP 708.02) filed May 09, 2002, along with the requisite fee (paid), in the above-noted application. The petition with accompanying statement, meet the requirements of Section 708.02 (II) of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by Patent and Trademark Office Officials concerned, contingent likewise upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is GRANTED.

Richard V. Fisher

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

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

KWADJO ADUSEI-POKU
MASCO TECH INC
21001 VAN BORN RD.
TAYLOR, MI 48180

COPY MAILED

NOV 2 6 2002

OFFICE OF PETITIONS

In re Application of :
John Hathaway et al :
Application No. 09/800,793 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 940-3079-U :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 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 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 above-identified application became abandoned on May 12, 2002.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.. While a courtesy copy of this decision is

being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

The application file is being forwarded to Technology Center AU 3727.

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

cc: ROBERT H. EARP III
MCDONALD HOPKINS BURKE & HABER LPA
2100 BANK ONE CENTER
600 SUPERIOR AVENUE
CLEVELAND, OH 44114

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

Brian L. Wamsley, Esq.
Goodwin Proctor LLP
599 Lexington Avenue
New York, NY 10022

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Aniouar Bjeoumikhov, et al. :
Application No. 09/800,804 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 103701-134698 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 14, 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 April 15, 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 2882 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Aniouar Bjeoumikhov et al. :
Application No. 09/800,804 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 101215-205 :

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A Final Office Action was mailed February 25, 2003 which set a three month period for response. In response thereof, an amendment was filed July 25, 2003(certificate of mail date) with a two month extension of time request. In response thereof, an Advisory Notice was mailed August 13, 2003 indicating that the amendment filed July 25, 2003 did not place the application in condition for allowance. Thereafter a Notice of Abandonment was mailed January 13, 2004.

Petitioner argues that in response to the Advisory Action, a Request for Continued Examination (RCE) was filed August 25, 2003, with an extension of time request, and that therefore the Notice of Abandonment was mailed in error.

A search of the application file and the USPTO records reveals that in fact, an RCE and extension of time, extending the response date to August 25, 2003, were filed on August 27, 2003 (August 25, 2003 certificate of mail date). The RCE requested that the amendment filed July 25, 2003 be used as the submission required under 37 CFR 1.114. In view thereof, the response was timely and the Notice of Abandonment mailed January 13, 2004 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2882 for processing the RCE filed August 25, 2003.

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

MAILED

SEP 05 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

In re Application of
Joseph B. Rissin
Application No. 09/800,828
Filed: March 8, 2001
For: EAR-NUT WITH HANDLES

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on papers filed August 22, 2002, which are being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on January 24, 2002 wherein a three-month shortened statutory period for response was set. Since no timely response to the January 24, 2002 Office action was received, the application is technically abandoned, although a Notice of Abandonment has yet to be mailed.

The papers filed August 22, 2002 consist of an amendment which bears a Certificate of Mailing attesting to the deposit of the correspondence with the United States Postal Service on April 24, 2002. Had this correspondence reached the United States Patent and Trademark Office, it would have been considered as timely filed. However, the correspondence submitted via mail has not been matched with the file. The papers received on August 22, 2002 were submitted via facsimile transmission and are apparently a copy of the correspondence sent on April 24, 2002.

Applicant may rely on the Certificate of Mailing procedures set forth in 37 CFR 1.8 to establish proof of timely filing. However, 37 CFR 1.8(b)(3) requires that the person who mailed the prior correspondence attest on a personal knowledge basis to the previous timely mailing. Such statement has not been submitted. For this reason, the holding of abandonment will not be withdrawn.

The application is being forwarded to the examiner to prepare a Notice of Abandonment.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petition desire reconsideration, he should submit a renewed petition which addresses the deficiency noted above.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

Kjd: 8/27/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#10

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FEB 11 2003

Office of the Director
Group 3600

Stephen E. Feldman P.C.
12 East 41st Street
New York, NY 10017

In re Application of :
Joseph B. Rissin et al. :
Application No. 09/800,828 :
Filed: March 8, 2001 :
For: EAR-NUT WITH HANDLES :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on November 12, 2002. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned in a notice mailed September 11, 2002 for failure to file a timely response to an Office communication dated January 24, 2002.

Applicant's petition includes a copy of a response bearing a Certificate of Mailing date of July 24, 2002. A statement by Ida Serrano was received within the petition, which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Primary Examiner for prompt action on the merits of the application.

Any inquiries specific to this decision should be directed to me at the number below.

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

SM: 2/11/03

UNITED STATES 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

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

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DEC 19 2003

OFFICE OF PETITIONS

In re Application of :
SCHWARTZ et al. :
Application No. 09/800,831 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 74451.P127D3 :

This is a decision on the petition, filed June 23, 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 December 11, 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. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 25, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2621.

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

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Edward L. Schwartz, et al. :
Application No. 09/800,831 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 74451.P127D3 :

This is a decision on the petition under 37 CFR 1.182, filed February 28, 2005, to change the order of the names of the inventors.

At present, the petition is dismissed.

A review of the record discloses that the application was filed on March 6, 2001 naming Edward L. Schwartz, Michael J. Gormish, Martin Boliek and Kok Gi Wu as joint inventors. It is noted that an Amendment to Correct Inventorship was filed on August 27, 2002; however, an appropriate petition in compliance with 37 CFR 1.48(a) was not included. Although there is no evidence that the request to correct the inventorship was approved by the proper deciding official, it appears Kok Gi Wu was deleted as a joint inventor and a corrected filing receipt was mailed. Since a review of the record indicates that the deletion of Kok Gi Wu as a joint inventor was done without authority, a corrected filing receipt, including Kok Gi Wu, is attached.

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 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

In the meantime, this application is being referred to Technology AU 2621 for further prosecution.

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 Two, Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

Attachment

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHALE J. MALLIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

COPY MAILED

MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of
Boliek et al.
Application No. 09/800,832
Filed: March 6, 2001
Attorney Docket No. 74451.P127D2

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 14, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Martin Boliek
2. Kok Gi Wu
3. Edward L. Schwartz

Effective on December 8, 2004, the petition fee increased to $400.00. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

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

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

MARY HANNAMAN ROMANS
P.O. BOX 100996
FORT WORTH, TX 76185

COPY MAILED

NOV 2 4 2003

OFFICE OF PETITIONS

In re Application of
Mary Romans
Application No. 09/800,870
Filed: March 7, 2001
Title: NON-TRAUMATIC MODEL FOR NEUROGENIC PAIN

DECISION ON PETITION

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed October 9, 2003 in the above-identified application. The petition is properly considered under 37 CFR 1.137(b)[1].

The petition under § 1.137(b) is **DISMISSED** without consideration on the merits.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a)" or "Renewed Petition under 37 CFR §1.137(b)," as appropriate. Extensions of time under 37 CFR §1.136(a) are permitted.

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed December 2, 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. (A late reply was submitted on July 1, 2003). Accordingly, the above-identified application became abandoned on March 3, 2003. A Notice of Abandonment was mailed on July 16, 2003.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. To pay the required petition fee, petitioner submits several credit card authorizations; of different dates (many a year old), signed by various persons, and requesting payment of various fees (i.e. partial petition, extension of time). Having reviewed these authorizations, it has been determined that they are not acceptable. Further, the previous payments, petitioner states were faxed to the Office on June 30, 2003 and August 14, 2003 are not of record in this application. (The last payment of record in this application was made in July 2001).

---

[1] *Pro se* applicant used form PTO/SB/61, which is for filing petitions to revive based on unavoidable delay. However, petitioner repeatedly states on petition that the delay is unintentional, does not state that they are providing an explanation to show unavoidable delay, and purports to include the fee for consideration under 37 CFR 1.137(b).

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

There is no basis for withdrawing the holding of abandonment in this case. As payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of an abandoned application and petitioner has not made such a payment, the petition must be dismissed.

The renewed petition should include:

- a cover letter entitled "renewed petition under § 1.137(b)," with a header identifying the paper as being filed in this application (including the application number, title, date filed, name of inventor, art unit, and name of examiner); and
- payment of the small entity petition fee of $665.00.

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

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 16

MARY HANNAMAN ROMANS
P.O. BOX 100996
FORT WORTH, TX 76185

COPY MAILED

DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Mary Romans
Application No. 09/800,870
Filed: March 7, 2001
Title: NON-TRAUMATIC MODEL FOR NEUROGENIC PAIN

DECISION ON PETITION

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed October 9, 2003 in the above-identified application. The petition is properly considered under 37 CFR 1.137(b)[1]. This petition is considered in light of the payment of the petition fee by authorization to charge a credit card filed November 26, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed December 2, 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. A late reply was received by facsimile transmission on July 2, 2003[2]. Accordingly, the above-identified application became abandoned on March 3, 2003. A Notice of Abandonment was mailed on July 16, 2003.

By decision mailed November 24, 2003, the petition under § 1.137(b) was dismissed without consideration on the merits for failure to submit the petition fee. On November 26, 2003, petitioner submitted authorization to charge her credit card $665 for payment of the petition fee set forth in 37 CFR 1.17(m).

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. Reply required for revival

---

[1] *Pro se* applicant used form PTO/SB/61, which is for filing petitions to revive based on unavoidable delay. However, petitioner repeatedly states on petition that the delay is unintentional, does not state that they are providing an explanation to show unavoidable delay, and purports to include the fee for consideration under 37 CFR 1.137(b).

[2] A request for a four month extension of time was filed on June 30, 2003. However, no such extension was permissible. The Office action set a shortened statutory period for reply of 3 months, with a maximum period of extension to 6 months, the statutory period. Accordingly, extensions for response could only be requested for up to 3 months (up to June 2, 2003).

of this application was previously received on July 2, 2003 (dated July 1, 2003). Petitioner has now met all of the requirements for a grantable petition under § 1.137(b).

The application file is being forwarded to Technology Center 1632 for consideration of the amendment filed July 2, 2003.

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

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

JUN 10 2003

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JUN 10 2003

OFFICE OF THE DIRECTOR
TC 3600

Richard A. Joel, Esq.
496 Kinderkamack Road
Oradell, NJ 07649

In re application of
Hank Kleban
Application No. 09/800,871
Filed: March 7, 2001
For: EQUAL RESPONSE AXLE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on February 28, 2003.

The petition is **DISMISSED**.

A review of the application file reveals that an Office action, setting a two-month shortened statutory period for reply, was mailed to the applicant on July 16, 2002. A reply was received on January 27, 2003. However, that reply was received after the six-month statutory time period, which expired on January 16, 2003. Thus the application was held to be abandoned in a Notice of Abandonment mailed February 21, 2003.

Applicant's petition alleges that a reply was filed by facsimile on August 13, 2002. There is no evidence in the file record of the Office having received any such facsimile communication. A copy of the reply is included with the petition. The only acceptable proof to accord an earlier filing date to a copy of a communication submitted by facsimile would be a Certificate of Transmission. Since apparently the applicant failed to use such a certificate, the copy of the response included with the petition cannot be accorded the timely filing date requested. Therefore, the application is properly held as being abandoned.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy
Box 1450
Alexandria, VA 22313-1450

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

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

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

SNM/tpl: 6/3/03

#10 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 31 2003

MAILED

DEC 31 2003

OFFICE OF THE DIRECTOR
TC 3600

Richard A. Joel, Esq.
496 Kinderkamack Road
Oradell, NJ 07649

In re application of
Hank Kleban
Application No. 09/800,871
Filed: March 7, 2001
For: EQUAL RESPONSE AXLE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on July 16, 2003.

The petition is **DENIED**.

A review of the application file reveals that an Office action, setting a two-month shortened statutory period for reply, was mailed to the applicant on July 16, 2002. A reply was received on January 27, 2003. However, that reply was received after the six-month statutory time period, which expired on January 16, 2003. Thus the application was held to be abandoned in a Notice of Abandonment mailed February 21, 2003.

Applicant's renewed petition alleges that a reply was filed by facsimile on August 13, 2002. A copy of the reply is again included with the petition.

There is no evidence in the file record of the Office having received any such facsimile communication.

Applicant has submitted a copy of a facsimile transmission activity report showing dates of facsimile transmissions on and around the date the facsimile response was allegedly sent; August 13, 2002. Also provided is a copy of the facsimile cover sheet of the alleged response. This is not a Certificate of Transmission, as shown in MPEP section 512. The only acceptable proof to accord an earlier filing date to a copy of a communication that was *originally* submitted by facsimile would be a copy of a Certificate of Transmission that was *attached to and identified the original* transmission it accompanied . Since apparently the applicant failed to use such a certificate with the *original* transmission, the copy of the response included with the petition cannot be accorded the timely filing date requested. Therefore, the application is properly held as being abandoned.

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail:	Deputy Commissioner of Patent Examination Policy Box 1450 Alexandria, VA 22313-1450
By FAX:	(703) 308-6916 Attn: Office of Petitions
By Hand:	Crystal Plaza 4, Suite 3C23 2201 South Clark Place Arlington, VA 22202

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 12/22/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD A. JOEL ESQ.
496 KINDERKAMACK ROAD
ORADELL NJ 07649

COPY MAILED

JUN 03 2008

OFFICE OF PETITIONS

In re Application of :
Hank Kleban :
Application No.: 09/800871 : DECISION ON
Filing or 371(c) Date: 03/07/2001 : PETITION
Attorney Docket Number: P00-132-KLE:

This is a decision in response to the petition to revive an application unintentionally abandonment under 37 CFR 1.137(b), filed December 3, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed July 16, 2002. The Office communication set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned September 17, 2002. A Notice of Abandonment was mailed February 21, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply; (2) the petition fee; (3) and a proper statement of unintentional delay. Accordingly, the failure to respond to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed July 16, 2002 is accepted as being unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 3616 for processing of the response.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
6 Becker Farm Road
Roseland NJ 07068

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MAR 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Burt Swersey, Marcie J. Harvey, Elias :
Kaplan, Jennifer Lamana, Stephen J. :
Howard, Dean Meloney, John Weed, and : DECISION REFUSING STATUS
Timothy Novak : UNDER 37 CFR §1.47(a)
Application No. 09/800,872 :
Filed: March 7, 2001 :
Title: DIFFERENTIAL PERMEOMETER :

This is in response to the petition under 37 CFR §1.47(a)[1], filed September 10, 2001[2].

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 7, 2001. On April 18, 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.

2 The petition contained a "first Class Certificate" dated September 5, 2001.

Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee). Accompanying the petition was a three-month extension of time, payment of the surcharge associated with the late filing of a declaration, a declaration executed by seven of the eight inventors, a statement by the petitioner which sets forth the pertinent facts, copies of two e-mails from signing inventor Burt Swersey to the non-signing inventor, and a declaration from the same.

The petitioner and the declarant set forth that the inventors were a group of students and a lecturer at Rensselaer Polytechnic Institute. After filing the application, the non-signing inventor left the University. The declarant then sent two e-mails to the last known e-mail address of the non-signing inventor, Kaplan@seciu.ny, which were returned from the Mail Delivery Subsystem MAILER-DAEMON@mail.taconic.net as not accepted for the reason "no such user or mailbox". The declarant then called the non-signing inventor at his last known telephone number, and wrote to him at his last known address (a residence in Albany, New York).

Rule 47 applicant has met requirements (1), (2), (3), and (4) above.

Regarding requirement (5) above, it is determined that the Rule 47 applicant has failed to prove that diligent efforts have been made to locate the non-signing inventor. A brief search of the LexisNexis database resulted in the name "Elias Kaplan" residing at the following address: 7218 Avenue M, Apartment 1, Brooklyn, New York, 11234-5808 with a telephone number of (718)-444-3963. A complete copy of the application, including the specification, claims, drawings (if any) and the declaration, should be sent to the non-signing inventor at this last known address.

Thus, on renewed petition, applicant must establish that diligent efforts have been undertaken to contact the non-signing inventor. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

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 regarding 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
www.uspto.gov

Paper No. 9

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
6 Becker Farm Road
Roseland NJ 07068

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Burt Swersey, Marcie J. Harvey, Elias :
Kaplan, Jennifer Lamana, Stephen J. :
Howard, Dean Meloney, John Weed, and : RENEWED DECISION REFUSING
Timothy Novak : STATUS UNDER 37 CFR §1.47(a)
Application No. 09/800,872 :
Filed: March 7, 2001 :
Title: DIFFERENTIAL PERMEOMETER :

This is in response to the renewed petition under 37 CFR §1.47(a)[1], filed May 14, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 7, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance

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.

with 37 CFR §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

The original petition, filed on September 10, 2001, was dismissed in a decision mailed on March 5, 2002, for failure to prove that diligent efforts have been made to locate the non-signing inventor.

With the instant petition, a fully executed declaration was filed.

Unfortunately, it has been noticed that the declaration filed with the original petition contains a non-initialed, non-dated change on the residence line of inventor Weed. Non-initialed and non-dated alterations cannot be made to the oath or declaration[2].

Thus, on renewed petition, applicant must submit a newly executed declaration, signed by inventor Weed, with either the correct address listed, or the change both initialed and dated.

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

2 See 37 CFR 1.52(c).
3 Commissioner for Patents, Box DAC, Washington, DC 20231.

4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

5 (703) 308-6916, Attn: 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

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
6 Becker Farm Road
Roseland NJ 07068

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Burt Swersey, Marcie J. Harvey, Elias :
Kaplan, Jennifer Lamana, Stephen J. :
Howard, Dean Meloney, John Weed, and : SECOND RENEWED DECISION
Timothy Novak : REFUSING STATUS UNDER
Application No. 09/800,872 : 37 CFR §1.47(a)
Filed: March 7, 2001 :
Title: DIFFERENTIAL PERMEOMETER :

This is in response to the second renewed petition under 37 CFR §1.47(a)[1], filed May 8, 2001.

The second renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Second Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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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 above-identified application was filed on March 7, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

The original petition, filed on September 10, 2001, was dismissed in a decision mailed on March 15, 2002, for failure to prove that diligent efforts have been made to locate the non-signing inventor.

With the renewed petition, a fully executed declaration was filed. It was then noticed by the undersigned that the declaration filed with the original petition contains a non-initialed, non-dated change on the residence line of inventor Weed. The undersigned then cited to 37 C.F.R. 1.52(c).

Petitioner was instructed to submit upon second renewed petition a newly executed declaration, signed by inventor Weed, with either the correct address listed, or the change both initialed and dated.

With the second renewed petition, the petitioner makes the following three arguments:

1. 37 C.F.R. §1.52(c) does not refer to alterations made in the declaration, but rather those made to the application papers.
2. 37 C.F.R. §1.52(c) does not require that hand-written changes be signed and dated, in that the language of the rule uses the word *should*, and not *must*.
3. 37 C.F.R. §1.52(c) provides that the alterations may be made on the same sheet of paper.
4. The change was made contemporaneously with the signing.

Regarding the first and second arguments above, the undersigned agrees that 37 C.F.R. §1.52(c) refers to the application papers, and uses the word *should*. However, the citation to this rule was a misprint, in that the decision should have cited to MPEP 605.04(a). The Office regrets this error.

Regarding each of these four arguments, MPEP 605.04(a) states that if any changes are made in ink to the oath[2] and are not signed and initialed, the Office will require a new declaration.

As changes have been made to the declaration which have not been dated and initialed, a new declaration is required. If petitioner cannot locate the non-singing inventor, a petition under 37 C.F.R. §1.183 will be required to waive 37 C.F.R. §1.67.

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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2 The declaration is not mentioned explicitly, but the words "oath" and "declaration" are used interchangeably throughout the MPEP.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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3 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**

4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

5 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
6 Becker Farm Road
Roseland NJ 07068

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of :
Burt Swersey, Marcie J. Harvey, Elias :
Kaplan, Jennifer Lamana, Stephen J. :
Howard, Dean Meloney, John Weed, and : THIRD RENEWED DECISION
Timothy Novak : REFUSING STATUS UNDER 37
Application No. 09/800,872 : CFR §1.47(a)
Filed: March 7, 2001 :
Title: DIFFERENTIAL PERMEOMETER :

This is in response to the third renewed petition under 37 CFR §1.47(a)[1], filed May 14, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Third Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in

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.

abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 7, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

The original petition, filed on September 10, 2001, was dismissed in a decision mailed on March 5, 2002, for failure to prove that diligent efforts have been made to locate the non-signing inventor.

With the third renewed petition, petitioner has included a declaration which lists John P. Weed as the first and sole inventor. As the petitioner has previously asserted that Mr. Weed was the seventh of eight joint inventors, this discrepancy will need to be addressed. It is assumed that petitioner merely had joint inventor Weed execute a one page declaration, as opposed to executing the complete declaration in the proper location. A new declaration will need to be submitted, where Mr. Weed is listed as the seventh joint inventor.

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

2 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**

3 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

4 (703) 308-6916 or (703) 305-4257, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 15

CARELLA, BYRNE, BAIN, GILFILLAN,
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6 Becker Farm Road
Roseland NJ 07068

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DEC 16 2003

OFFICE OF PETITIONS

In re Application of :
Burt Swersey, Marcie J. Harvey, Elias Kaplan, :
Jennifer Lamana, Stephen J. Howard, Dean :
Meloney, John Weed, and Timothy Novak :
Application No. 09/800,872 :
Filed: March 7, 2001 :
Title: DIFFERENTIAL PERMEOMETER :

DECISION NOTING JOINDER AND DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS MOOT

This is in response to the fourth renewed petition under 37 C.F.R. 1.47(a)[1], filed December 5, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on March 7, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

With the fourth renewed petition, petitioner has submitted an acceptable declaration that has been executed by the previously non-signing joint inventor Weed. A three-month extension of

[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.

time fee has been charged to petitioner's Deposit Account, as authorized in the petition, to make timely this response.

This declaration has been reviewed and found in compliance with 37 §CFR 1.63.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

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

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Gormish et al. :
Application No. 09/800,932 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 74451.P127D1 :

This is a decision on the petition under 37 CFR 1.137(f)/(b), filed June 23, 2003, to revive the present 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 December 11, 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 November 20, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

Telephone inquiries regarding this decision should 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
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MICHAEL J. MALLIE
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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Gormish et al.	:	
Application No. 09/800,932	:	ON PETITION
Filed: March 6, 2001	:	
Attorney Docket No. 74451.P127D1	:	

This is a decision on the petition under 37 CFR 1.182, filed June 27, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Kok Gi Wu

2. Michael J. Gormish

This matter is now being referred to Technology Center 2600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

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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Paper No. 15

MICHAEL BEST & FRIEDRICH LLC
401 NORTH MICHIGAN AVENUE
SUITE 1700
CHICAGO, IL 60611-4212

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Wegerich, Stephan W.	:	
Application No. 09/800,977	:	ON PETITION
Filed: March 8, 2001	:	
Attorney Docket No. 086470-9008	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 21, 2003.

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

Petitioner stated in the instant petition that a check for $1330.00 was included for payment of the petition fee. However, according to our financial records, the check submitted was only for $665.00. Accordingly, an additional $665.00 will be charged to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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JUN 07 2004
OFFICE OF PETITIONS

In re Application of	:	
Torget et al.	:	
Application No. 09/800,997	:	DECISION GRANTING PETITION
Filed: March 8, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 47004.000107	:	

This is a decision on the petition, filed April 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 December 3, 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. A corrected filing receipt, indicating a projected publication date of July 22, 2004, accompanies the present petition.

This application is being forwarded to Technology Center Art 3621.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Correct Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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1900 K STREET, N.W.
SUITE 1200
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JUN 07 2004
OFFICE OF PETITIONS

In re Application of :
Torget et al. :
Application No. 09/800,997 : DECISION GRANTING PETITION
Filed: March 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 47004.000107 :

This is a decision on the petition, filed April 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 December 3, 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. A corrected filing receipt, indicating a projected publication date of July 22, 2004, accompanies the present petition.

This application is being forwarded to Technology Center Art 3621.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Correct Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON DC 20007-5201

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OFFICE OF PETITIONS

In re Patent No. 6685095	:	
Issue Date: 02/03/2004	:	
Application Number: 09/801111	:	ON PETITION
Filing Date: 03/05/2001	:	
Attorney Docket Number: 213202.00395	:	

This is a decision on the "PETITION FOR REVIVAL OF A PATENT LAPSED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on April 4, 2008, which is treated as a petition under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 3, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is noted that petitioner requests that the Office charge, *inter alia*, $770.00 for the "small entity Surcharge after Expiration (unintentional)," to counsel's deposit account. The surcharge required by 37 CFR 1.20(i)(2) for a petition under 37 CFR 1.378(c) to accept an unintentionally delayed payment of a maintenance fee, however, is $1,640.00. Accordingly, the balance due will be charged to counsel's deposit account as authorized in the petition.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 2 4 2006

OFFICE OF PETITIONS

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

In re Application of :
BEDOS, et al. :
Application No. 09/801,150 : DECISION ON PETITION
Filed: March 07, 2001 : TO WITHDRAW
Attorney Docket No. 10984.5US01 : 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 18, 2006.

The request is **APPROVED**.

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

The request was signed by Brian D. Walker on behalf of all attorneys of record who are associated with customer number 25883.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named signing inventor Thierry Bedos at the address indicated below.

A Review of the file discloses that a non-final Office action was mailed on April 14, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of April 14, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Thierry Bedos
62 Farrer Road #01-03 Spanish Village
Singapore, 268847
SINGAPORE

OIPE
SEP 1 0 2003
PATENT & TRADEMARK OFFICE
TC 1700

Case No.: ELLIP-002A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bjoern Magnussen, *et al.*		
Assignee:	Elliptec Resonant Actuator Aktiengsellschaft)	Group Art Unit:	2834
Serial No.:	09/801,194	Examiner:	Mark O. Budd
Filed:	March 8, 2001	Confirmation No.:	4082
For:	VIBRATORY MOTORS AND METHODS OF MAKING AND USING SAME		

Petition Granted MBudd 2-8-05

PETITION UNDER 37 C.F.R. § 1.48(a) FOR CORRECTION OF INVENTORSHIP OF U.S. PATENT APPLICATION NO. 09/801,194 PURSUANT TO 35 U.S.C. § 116

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Pursuant to 35 U.S.C. § 116, 37 C.F.R. § 1.48(a), and M.P.E.P. § 201.03, Elliptec Resonant Actuator Aktiengsellschaft ("Elliptec") hereby petitions the Commissioner to correct the inventorship of United States Patent Application No. 09/801,194 ("the '194 application") to add Erick M. Davidson as a joint inventor to the previously named inventors Bjoern Magnussen, Peter Varadi, Benjamin Hagemann and Steven Schofield.

I. THROUGH ERROR WITHOUT ANY DECEPTIVE INTENT, ONE INVENTOR WAS OMITTED AS AN INVENTOR OF CLAIMS

The '194 application was filed on March 8, 2001 with Claims 1-126. The '194 application was allowed on June 27, 2003.

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The Declaration filed with the '194 application listed Bjoern Magnussen, Peter Varadi, Benjamin Hagemann and Steven Schofield as the sole inventors of the '194 application. It is now believed that an additional inventor, Erick M. Davidson, is a joint inventor with Bjoern Magnussen, Peter Varadi, Benjamin Hagemann and Steven Schofield of the subject matter of the original and allowed claims. This error in identifying the proper inventorship arose without any deceptive intent on my part, or on the part of any of the inventors. *See* Stmt. of Bjoern Magnussen ¶3; Stmt. of Peter Varadi ¶3; Stmt. of Benjamin Hagemann ¶3; Stmt. of Steven Schofield ¶3; Stmt. of Erick M. Davidson ¶3.

Pursuant to 37 C.F.R. § 1.48(a), each of the five inventors requests to change the inventorship of the of the '194 application to name Bjoern Magnussen, Peter Varadi, Benjamin Hagemann, Steven Schofield and Erick M. Davidson as co-inventors of the '194 application.

II. ESTABLISHMENT OF ASSIGNEE ELLIPTEC'S RIGHT TO TAKE ACTION PURSUANT TO 37 C.F.R. § 3.73(b)

Elliptec is the owner of all right, title, and interest in the '194 application. *See* Stmt. of Elliptec ¶3. Each of the inventors of the '194 application has assigned the '194 application to Elliptec. Specifically, Bjoern Magnussen, Peter Varadi, Benjamin Hagemann and Steven Schofield have all assigned the '194 application to Seimens Aktiengessellschaft ("Seimens"). *See* U.S. Published Patent Application No. 20020038987. Seimens then assigned the '194 application to Elliptec which is now recorded in Reel/Frame No. 012087/0049.

Pursuant to 37 C.F.R. § 1.48(a), Elliptec agrees to the requested change of the inventorship of the '194 application to identify the named inventors as Bjoern Magnussen, Peter Varadi, Benjamin Hagemann, Steven Schofield and Erick M. Davidson. *Id.* ¶4. Elliptec thus requests that the Commissioner take action in this matter to correct the inventorship of the '194 application.

III. SUBMISSION OF A DECLARATION OF EACH ACTUAL INVENTOR AS REQUIRED BY 37 C.F.R. § 1.63

Pursuant to 37 C.F.R. § 1.48(a), Elliptec files with this Petition a Declaration by each actual inventor as required by 37 C.F.R. § 1.63, signed by each of the actual inventors, namely,

Bjoern Magnussen, Peter Varadi, Benjamin Hagemann, Steven Schofield and Erick M. Davidson.

IV. PAYMENT OF REQUIRED FEE PURSUANT TO 37 C.F.R. § 1.17(i)

Finally, pursuant to 37 C.F.R. §§ 1.48(a) and 1.17(i), Elliptec files with this Petition a check for $130.00, made payable to the Commissioner of Patents, for the required processing fee for correcting inventorship in a patent application. Please charge any additional necessary fees for this Petition to Deposit Account No. 19-4330.

V. CONCLUSION

For the foregoing reasons, Elliptec respectfully requests the Commissioner to correct the inventorship of the '194 application to name Bjoern Magnussen, Peter Varadi, Benjamin Hagemann, Steven Schofield and Erick M. Davidson as inventors of the application. If you have any questions in this regard, please do not hesitate to contact the undersigned attorney.

Date: 9/10/03

By: Lowell Anderson

Customer No. 007663

Lowell Anderson
Registration No. 30,990
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949)855-1246

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PATENT & TRADEMARK OFFICE
JC102

STATEMENT OF ASSIGNEE ELLIPTEC RESONANT ACTUATOR AKTIENGESELLSCHAFT

I, BJOERN MAGNUSSEN, state as follows:

1. I am the Chief Executive Officer of Elliptec Resonant Actuator Aktiengesellschaft ("Elliptec"), whose business address is Meinhardstrasse 3, 44379 Dortmund, Germany.
2. As Chief Executive Officer of Elliptec, I am authorized to act on behalf of Elliptec.
3. Elliptec is the owner of the entire right, title and interest in the United States Patent Application No. 09/801,194 ("the 194 application") as recorded in Reel/Frame No. 012087/0049.
4. Elliptec agrees to the requested change of the inventorship of the '194 application to identify the named inventors as Bjoern Magnussen, Peter Varadi, Benjamin Hagemann, Steven Schofield and Erick M. Davidson.

Dated: 08/27/2003 By: _____

Bjoern Magnussen
Chief Executive Officer
Elliptec Resonant Actuator Aktiengesellschaft

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SEP 10 2003
PATENT & TRADEMARK OFFICE
TC102

STATEMENT OF BJOERN MAGNUSSEN

I, BJOERN MAGNUSSEN, declare as follows:

1. I am one of the currently named inventors of United States Patent Application No. 09/801,194 ("the '194 application").
2. My residential address is Margeritenstrasse 6a, 58640 Iserlohn, Germany.
3. Through error, Erick M. Davidson was not named in the '194 application as an inventor, and such error arose without any deceptive intent on my part.

Dated: 08/27/2003

By: B. Magnussen

Bjoern Magnussen

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SEP 10 2003
PATENT & TRADEMARK OFFICE
3C102

STATEMENT OF PETER VARADI

I, PETER VARADI, declare as follows:

1. I am one of the currently named inventors of United States Patent Application No. 09/801,194 ("the '194 application").
2. My residential address is 822 Masonic Avenue, Albany, California 94706.
3. Through error, Erick M. Davidson was not named in the '194 application as an inventor, and such error arose without any deceptive intent on my part.

Dated: 8/14/03 By: _____

Peter Varadi

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3C102

STATEMENT OF BENJAMIN HAGEMANN

I, BENJAMIN HAGEMANN, declare as follows:

1. I am one of the currently named inventors of United States Patent Application No. 09/801,194 ("the '194 application").
2. My residential address is Galoppstrasse 93, 44229 Dortmund, Germany.
3. Through error, Erick M. Davidson was not named in the '194 application as an inventor, and such error arose without any deceptive intent on my part.

Dated: 8/27/03 By: B. Hagemann

Benjamin Hagemann

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OIPE
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PATENT & TRADEMARK OFFICE
2100

STATEMENT OF STEVEN SCHOFIELD

I, STEVEN SCHOFIELD, declare as follows:

1. I am one of the currently named inventors of United States Patent Application No. 09/801,194 ("the '194 application").
2. My residential address is 2724 Alcatraz Avenue, Berkeley, California 94705.
3. Through error, Erick M. Davidson was not named in the '194 application as an inventor, and such error arose without any deceptive intent on my part.

Dated: 9/16/03

By: Steven Schofield
Steven Schofield

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PATENT & TRADEMARK OFFICE
JC102

STATEMENT OF ERICK M. DAVIDSON

I, ERICK M. DAVIDSON, declare as follows:

1. My residential address is 5215 Fresno Avenue, Apt. A, Richmond, California 94804.
2. I am being added as one of the inventors of the subject matter of Claims 1-7, 9, 10, 12-14, 16-18, 20-47, 49-68, 72-75, 77-85, 118-124 and 127-156 of U.S. Patent Application No. 09/801,194 ("the '194 application").
3. Through error, I was not named in the '194 application as an inventor, and such error arose without any deceptive intent on my part.

Dated: 8/14/03

By: _____
Erick M. Davidson

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Kai Wang, et al. :
Application No. 09/801,196 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 60117-61 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 10, 2004, 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 at midnight on August 10, 2004. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application matter is being forwarded to Technology Center 1600, Art Unit 1634 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of :
Edward L. Schwartz, et al. :
Application No. 09/801,218 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 074451.P127D8 :

This is a decision on the petition, filed June 23, 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 11, 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 February 12, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MICHAEL J. MALLIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
WILSHIRE BOULEVARD 7TH FLOOR
LOS ANGELES CA 90025

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Martin Boliek et al. :
Application No. 09/801,218 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No.: 74451.P127D8 :

This is a decision on the petition under 37 CFR 1.182, filed February 14, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Martin Boliek
2. Michael J. Gormish
3. Edward L. Schwartz

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to the Office of Publications.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J. MALLIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
WILSHIRE BOULEVARD 7TH FLOOR
LOS ANGELES CA 90025

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Martin Boliek et al.
Application No. 09/801,218
Filed: March 6, 2001
Attorney Docket No.: 74451.P127D8

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 14, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Martin Boliek
2. Michael J. Gormish
3. Edward L. Schwartz

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to the Office of Publications.

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

RECEIVED
MAR 23 2005
OIPE/JC1600

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

OIPE JC130 MAR 02 2005 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/801,218	03/06/2001	2621	1046	74451.P127D8	26	22	4

CONFIRMATION NO. 3999
CORRECTED FILING RECEIPT
OC000000015321160
OC000000015321160

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Wilshire Boulevard 7th Floor
Los Angeles, CA 90025

Date Mailed: 03/02/2005

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

Applicant(s)

Martin Boliek, San Francisco, CA;
Michael J. Gormish, Redwood City, CA;
Edward L. Schwartz, Sunnyvale, CA;

Power of Attorney:

Stanley Sokoloff--25128
Edwin Taylor--25129
Roger Blakely Jr--25831
Norman Zafman--26250
Eric Hyman--30139
James Scheller Jr--31195
Lester Vincent--31460
Maria Sobrino--31639
William Kidd--31772
George Hoover II--32992

Domestic Priority data as claimed by applicant

This application is a DIV of 09/784,928 02/15/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/29/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/801,218

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR ELIMINATING FLICKER BY QUANTIZING VALUES BASED ON PREVIOUS QUANTIZATION

Preliminary Class

382

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

DEC - 9 2002

JEFF LLOYD
2421 N.W. 41ST STREET, SUITE A-1
GAINESVILLE FL 32606-6669

#18

In re Application of
Paul Samberu et al
Serial No.: 09/801,221
Filed: March 7, 2001
Attorney Docket No.: USF-7166CXC1

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed November 19, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

An Office action was mailed in this application on November 26, 2002. Applicants' reply is awaited.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:05112005

DATE : May 11, 2005

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction on Patent No.: 6,762,022 B2

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:

Applicants' request to change the delete the phrase, "abandoned," and insertion of the phrase, --abandoned, which is a continuation-in-part of application No. 08/811,804, filed on March 5, 2001, now Pat. No. 6,117,634-- has not been entered for containing the wrong filing date.

GARY BENZION, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Gary Benzion **Art Unit** 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Calvin D. Ostler
1094 West Greasewood Drive
Riverton, UT 84065

COPY MAILED

JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of

C. Ostler, et al. :

Application No. 09/801,351

: DECISION ON PETITION

Filed: March 7, 2001

:

Attorney Docket No. 5038.1P

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed October 10, 2002, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period. The application became abandoned on January 11, 2003. A Notice of Abandonment was mailed on July 15, 2003.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant

petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 3700 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

cc:
Lisa A. Haile
Gray Cary Ware & Freidenrich, LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

(Rel.85—11/00 Pub.605) FORM 9-11 9-91

#3737

OIPE JC167 AUG 20 2001 PATENT & TRADEMARK OFFICE

Practitioner's Docket No. BROOKSTONE 00.04 **PATENT**

RECEIVED AUG 24 2001 TECHNOLOGY CENTER R3700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: SCHWARTZ et al.
Application No.: 09 / 801,353 Group No.: 3737
Filed: March 7, 2001 Examiner:
For: Massaging Bed Rest With Light

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (37 C.F.R. § 1.102 and M.P.E.P. § 708.02)

NOTE: See M.P.E.P. § 708.02, 7th ed.

Applicant hereby petitions to make this application special because of actual infringement.

1. Accompanying material

Accompanying this petition is:

(a) a Statement of Facts in Support of Petition to Make Special Because of Actual Infringement;

and

(b) a Statement by Attorney in Support of Petition to Make Special Because of Actual Infringement

2. Fee (37 C.F.R. § 1.17(i)–$130.00)

☐ Attached is a ☐ check ☐ money order in the amount of $ _____

☒ Authorization is hereby made to charge ~~the amount of $ xxxxxxxxxxxxxxx~~ any additional fees required

☒ to Deposit Account No. 08-1391

☒ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: *Credit card information should **not** be included on this form as it may become public.*

☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

SIGNATURE OF PRACTITIONER

Reg. No.: 24,315

Norman P. Soloway
(type or print name of practitioner)

Tel. No.: (520) 882-7623

Hayes, Soloway, Hennessey, Grossman & Hage
130 W. Cushing Street
P.O. Address
Tucson, AZ 85701

Customer No.:

08/22/2001 RHARTS1 00000054 09801353
01 FC:122 130.00 OP

OIPE JC
AUG 20 2001
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. BROOKSTONE 00.04 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
AUG 24 2001
TECHNOLOGY CENTER R3700

In re application of: SCHWARTZ et al
Application No.: 09 / 801,353 Group No.:
Filed: March 7, 2001 Examiner:
For: MASSAGING BED REST WITH LIGHT

Assistant Commissioner for Patents
Washington, D.C. 20231

STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)

NOTE: "Subject to a requirement for a further showing as maybe necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(i) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice be-fore the PTO alleging: (A) That there is an infringing device or product actually on the market or method in use; (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. Models or specimens of the infringing product or that of the application should not be submitted unless requested." M.P.E.P. § 708.02, 7th ed.

I,

Name Norman P. Soloway

P.O. Address 175 Canal Street, Manchester, NH 03101

Reg. No. 24,315

Tel. No. (603)668-1400

am the ☐ applicant, ☐ assignee, ☒ practitioner in this case and make the following statements:

1. I have made a rigid comparison of the alleged infringing
   - ☒ device
   - ☐ product
   - ☐ method

referred to in my accompanying statement of even date with the claims of this application.

(add any pertinent comments that may apply)

2. That, in my opinion, claims 1,2,4,5,7,10,11,12, 14,15,16,25,27,28,30, 31,32,34,36,37,45,46 and 47 on file in this application are unquestionably infringed.

(add any pertinent comments that may apply)

(check all applicable items below)

3. I

- ☐ have made a search of
- ☒ have caused to be made a search of
- ☐ have a good knowledge of

the pertinent prior art. All such material art is provided to the Examiner as

- ☐ having been filed
- ☐ being supplemented
- ☒ being filed herewith

in a respective Information Disclosure Statement.

NOTE: Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. M.P.E.P. § 708.02, 7th ed.

4. That I believe all the claims in this application

- ☒ as on file and
- ☒ as on file resulting from the attached amendment

are allowable.

Date: 8-16-01

Signature NORMAN P. SOLOWAY

Reg. No. (if applicable): 24,315

OIPE
AUG 2 0 2001
PATENT & TRADEMARK OFFICE
SC167

Practitioner's Docket No. BROOKSTONE 00.04 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
SEP 24 2001
TECHNOLOGY CENTER R3700

In re application of: SCHWARTZ et al
Application No.: 09 /801,353 Group No.:
Filed: March 7, 2001 Examiner:
For: MASSAGING BED REST WITH LIGHT

Assistant Commissioner for Patents
Washington, D.C. 20231

STATEMENT OF FACTS IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)

NOTE: Prospective infringement is not a ground for making special. M.P.E.P. § 708.02, 7th ed.

I,

Name of person making statement Norman P. Soloway

Address 175 Canal Street, Manchester, NH 03101

☐ am the inventor;

☒ have the following interest or relationship to the above identified invention
Attorney for Assignee.

;

and I hereby state the following:

NOTE: Models or specimens of the infringing product or that of the application should not be submitted unless requested. M.P.E.P. § 708.02, 7th ed.

1. There is an actual infringement of this invention.

(state facts about the infringing device or product actually on the market or method in use)

See attached Statement of Facts, and Exhibits thereto.

2. The

- ☒ device
- ☐ product
- ☐ method

that I allege infringes this invention was first discovered to exist on January-April, 2001.

Signature NORMAN P. SOLOWAY

(Statement of Facts in Support of Petition to Make Special Because of Actual Infringement
(M.P.E.P. § 708.02) [9-12]—page 2 of 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

Paper No. 13

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

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Schwartz et al. :
Application No. 09/801,360 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 074451.P127D4 :

This is a decision on the petition under 37 CFR 1.137(f)/(b), filed June 23, 2003, to revive the present 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 December 11, 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 November 20, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RECEIVED
MAY 0 9 2005

74451P127D4
Ricoh GP
MJM

MICHAEL J. MALLIE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

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MAY 0 6 2005
OFFICE OF PETITIONS

In re Application of
Martin Boliek et al
Application No. 09/801,360
Filed: March 6, 2001
Attorney Docket No. 74451.P127D4

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182, filed February 14, 2005, to change the order of the named inventors.[1]

The petition is **granted**.

A corrected Filing Receipt which reflects the desired order of inventorship accompanies this decision on petition.

Petitioner has submitted a fee of $130. However, effective November 22, 2004, the fee for the filing of a petition under 37 CFR 1.182 was increased to $400. Accordingly, as authorized, the balance due of $270 will be charged to petitioner's deposit account.

If the printing of this application into a patent has progressed to the point where the desired order of inventorship cannot be included on the front page of the Letters Patent, petitioner may request a certificate of correction (with $100 fee) pursuant to the provisions of 37 CFR 1.323.

Inquiries specific to this decision should be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of this application into a patent should be directed to the Publishing Customer Service (703) 308-6789.

This matter is being referred to Publishing Division.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

NO DOCKETING REQUIRED

[1] The petition did not include 4th inventor Wu; therefore, the order of inventorship as to inventor Wu has not changed.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 12

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Schwartz, et al. :
Application No. 09/801,361 : ON PETITION
Filed: March 6, 2001 :
Attorney Docket No. 74451.P127D5 :

This is a decision on the petition to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed June 23, 2003.

The petition is **GRANTED**.

Petitioner states that the instant patent is the subject of a PCT international application filed on December 11, 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 6, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2600 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)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 0 8 2004

OFFICE OF PETITIONS

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of
Mark E. Thompson, et al.
Application No. 09/801,382
Filed: March 7, 2001
Attorney Docket No. 10020/6702

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

The application is being forwarded to Technology Center AU 1762 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

SYMYX TECHNOLOGIES INC
LEGAL DEPARTMENT
3100 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

COPY MAILED

JUL 17 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
H. Sam Bergh et al.
Application No. 09/801,389
Filed: March 7, 2001
Attorney Docket No. 2000-022DIV1

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed June 29, 2001, requesting that the above-identified application be accorded a filing date of March 7, 2001, rather than the presently accorded filing date of March 8, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 7, 2001. In support, applicant provided a copy of the Express Mail label, receipt no. EL418494568US, showing a Date-In of March 14, 2000. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of March 7, 2001.

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 March 7, 2001.

The petition is granted.

Preliminary amendment filed with the instant petition is acknowledged.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed May 30, 2001, and for correction of the filing date to March 7, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

SYMYX TECHNOLOGIES INC
LEGAL DEPARTMENT
3100 CENTRAL EXPRESS
SANTA CLARA, CA 95051

COPY MAILED

OCT 0 2 2001

OFFICE OF PETITIONS

In re Application of :
H. Sam Bergh et al : DECISION GRANTING
Application No. 09/801,390 : PETITION
Filed: March 7, 2001 :
Attorney Docket No. 2000-022R1 :

This is a decision on the petition under 37 CFR 1.10(c) filed August 2, 2001, requesting that the above-identified application be accorded a filing date of March 7, 2001, rather than the presently accorded filing date of March 8, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 7, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL418494554US, showing a Date-In of March 7, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of March 7, 2001.

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 March 14, 2000.

The petition is granted.

Receipt is acknowledged of the declaration filed August 2, 2001, in response to the Notice mailed July 11, 2001.

The application is being returned to Initial Patent Examination Division for further processing using the declaration filed August 2, 2001 and for correction of the filing date to March 7, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

Haverstock & Owens, LLP
162 North Wolfe Road
Sunnyvale, CA 94086

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Peter O. Schmidt, et al. :
Application No. 09/801,398 : DECISION GRANTING PETITION
Filed: March 7, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. HELLO-08600 :

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 Marcy 7, 2002. 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-475.

This application is being forwarded to Technology Center Art Unit 3677 to await a reply to the Office action mailed Jun 6, 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 10/05/06

Patent No. : 6980575 B1
Patent Issued : 12/27/05
Docket No. : **CD 00-214**
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.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent. **"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
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-308-9390 #112 or (703) 305-8309

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

LMN

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TOWNSEND AND TOWNSEND AND CREW
TWO EMBARACADERO CENTER 8TH FLOOR
SAN FRANCISCO, CA 94111

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Sohn et al.	:	DECISION ON PETITION
Application No. 09/801,439	:	TO WITHDRAW
Filed: March 7, 2001	:	FROM RECORD
Attorney Docket No. 017887-005110US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 15, 2005, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that the attorneys/agents associated with Customer Number 20350: (1) do not have power of attorney in this patent application (only the correspondence address was assigned to Customer Number 20350); but (2) has been employed or otherwise engaged in the proceedings in this patent application. The attorneys/agents associated with Customer Number 20350 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

A Power of Attorney was submitted by the assignee of the entire interest on November 16, 2005. The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed December 2, 2005.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other questions and concerns should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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

THOMAS B. HAVERSTOCK
HAVERSTOCK & OWENS LLP
260 SHERIDAN AVENUE, SUITE 420
PALO ALTO CA 94306

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JUN 17 2002

OFFICE OF PETITIONS

In re Application of
Peter O. Schmidt et al
Application No. 09/801,442
Filed: March 7, 2001
Attorney Docket No. HELLO-08601

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(f) AND
:NOTICE RESETTING PERIOD FOR
:REPLY TO FINAL OFFICE ACTION

This is a decision on the petition filed May 28, 2002 and supplemented on June 12, 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 March 7, 2002. 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 in compliance with 37 CFR 1.137(f). However, while 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 [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." 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) 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 26, 2002 accompanies this decision on petition.

There is no indication that a reply to the final Office action of March 12, 2002 has been filed. Accordingly, the period for reply to the Office action of March 12, 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 2643 to await a reply to the final 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

ATTACHMENT: Corrected Filing Receipt

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JUN 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 24

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

In re Application of
Peter O. Schmidt, et al.
Application No. 09/801,442
Filed: March 7, 2001
For: ELECTRONIC DEVICE UTILIZING AN EARPLUG SUPPORT ELEMENT AND METHOD FOR PROVIDING THE SAME

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition to revive filed April 19, 2004 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed March 18, 2003. A Notice of Abandonment has not been mailed.

Petitioner asserts that a proper response was timely filed. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on May 12, 2003.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded TC2600's Technical Support Staff for entry of the reply; thereafter it will be forwarded to the examiner for consideration of the response in appropriate turn.

It is noted that the IDS dated September 26, 2003 was received by the Office on September 29, 2003 and has been placed in the application file.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

ALZA CORPORATION
1900 CHARLESTON ROAD
P.O. BOX 7210
MOUNTAIN VIEW, CA 94039-7210

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Suneel Gupta et al :
Application No. 09/801,443 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. ARC 2863 N1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 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 June 26, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 27, 2002.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on March 11, 2003.

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

The application file is being forwarded to Technology Center 1600 for further processing.

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

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Paper No. 4

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA, PA 19103

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MAY 07 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Harvey J. Kliman et al.
Application No. 09/801,470
Filed: March 8, 2001
Attorney Docket No. KLI-0002

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed April 18, 2001, requesting that the above-identified application be accorded a filing date of March 8, 2001, rather than the presently accorded filing date of March 7, 2001.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 8, 2001. In support, applicant provided a copy of the Express Mail label, receipt no. EL531447145US, showing a Date-In of March 8, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicant requests that the application be accorded a filing date of March 8, 2001.

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 March 8, 2001.

The petition is granted. The $130 petition fee is being credited to counsel's deposit account as requested.

The application is being returned to Initial Patent Examination Division to await receipt of the signed declaration and fee required by the Notice mailed April 13, 2001, and for further processing with a filing date of March 8, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

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Dean D. Small
The Small Patent Law Group, LLP
Suite 1611
611 Olive Street
St. Louis, MO 63101

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OFFICE OF PETITIONS

In re Application of :
Raymond M. Broemmelsiek :
Application No. 09/801,484 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. C4971C:US (23336-17) :

This is a decision on the petition under 37 CFR 1.137(b), filed on May 18, 2006, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed May 28, 2004. A Notice of Abandonment was mailed on December 17, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2613.

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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ALEXANDRIA, VA 22313-1450
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JUL 16 2003

Armstrong, Westerman & Hattori, LLP
502 Washington Avenue, Suite 220
Towson, MD 21204

Paper No. 11

In re Application of : DECISION ON PETITION
Alan H. Shikani :
Serial No. : 09/801,486 :
Filed : March 8, 2001 :
For : Tracheostomy Tube With Adjustable Quick Release And Method Therefor :

This is a decision on petitioner's request filed May 28, 2003 by which petitioners request the establishment of a new shortened statutory period for filing a reply to the Office letter dated February 3, 2003, which was a Final Rejection. Petitioner alleges that he did not receive the Office letter in question. The petition is being considered under 37 CFR 1.181, and no fee is required.

Section 711.03(c) of the MPEP sets forth guidelines for establishing non-receipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing is acceptable under the circumstance in the instant application in which applicant is informed of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned. In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed May 28, 2003 includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Final Rejection of February 3, 2003; the remailing of this Office action will establish a new shortened statutory period for response.

Summary: Final Rejection of February 3, 2003 to be remailed setting forth a new shortened statutory period for response.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873
ak/07/10/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Joseph E. Gortych
SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAIL

MAY 2 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

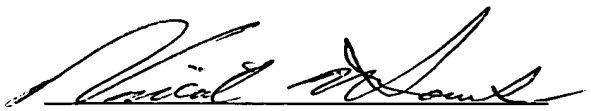
In re Application of)
Michael D. ARNER et al)
Application No. 09/801,491) **DECISION ON REQUEST FOR**
Filed: March 8, 2001) **WITHDRAWAL AS ATTORNEY**
For: REAL-TIME GLOBAL)
POSITIONING SYSTEM)
APPLICATION IN TWO-WAY)
MOBILE WIRELESS NETWORKS)

This is a decision on the Request To Withdraw from Representation filed September 27, 2001.

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

The request is **GRANTED**.

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



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

cc: Marbles, Inc.
153A Rangeway Drive
Aka SkyFire Technologies
P.O. Box 22
North Billerica, MA 01862-0901

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Paper No. 5

WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of :
Mekkittikul et al. :
Application No. 09/801,533 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. LANT-004 :

This is a decision on the petition under 37 CFR 1.137(f), filed June 6, 2003, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in the PCT Office designating foreign countries on March 7, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Therefore, pursuant to the provisions of 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed 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 present 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 Office has processed the request to rescind the previous nonpublication request. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of September 16, 2004, accompanies this decision on petition.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS LLP
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

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OFFICE OF PETITIONS

In re Application of :
Adrian Bot et al :
Application No. 09/801,540 : DECISION ON PETITION
Filed: March 8, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A30571-A-PCT/USA-A :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 9, 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 **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 above-noted, prior-filed Application No. 08/755,034 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 application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

---

[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-4498

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Adrian Bot et al :
Application No. 09/801,540 : DECISION ON PETITION
Filed: March 8, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A30571-A-PCT/USA-A :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 17, 2005, 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 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). 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 above-noted, prior-filed nonprovisional application 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 above-noted, 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 inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matte is being forwarded to Technology Center Art Unit 1632 for appropriate action on the amendment filed June 17, 2005, 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.

Karen Creasy

Karen Creasy
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
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

Chevron Phillips Chemical Company LP
Suite 3447
1301 McKinney
Houston TX 77010

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of
Tin-Tack Peter Cheung et al.
Application No. 09/801,558
Filed: March 8, 2001

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed May 20, 2003, requesting that the above-identified application, without drawings, be accorded a filing date of March 8, 2001.

The application was filed on March 8, 2001, without drawings.[1] Accordingly, on January 22, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on May 20, 2003, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of April 5, 2001.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed January 22, 2002, is hereby withdrawn. The application is accorded a filing date of March 8, 2001, without drawings.

The petition is granted. No fees are due and none have been charged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 8, 2001, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Harari et al.	:	DECISION ON PETITION
Application No. 09/801,560	:	TO WITHDRAW
Filed: March 8, 2001	:	FROM RECORD
Attorney Docket No. 10212-003	:	

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 30, 2006.

The request is **APPROVED**.

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

The request was signed by Anthony C. Coles on behalf of the attorneys associated with Customer Number 21890.

All attorneys/agents associated with Customer Number 21890 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 14, 2006 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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
DRW 12-02

MS. THERESA HATCHER
1717 FERRELL STREET
LAS VEGAS NV 89106-1303

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OFFICE OF PETITIONS

In re Application of
Theresa Hatcher
Application No. 09/801,579
Filed: 9 March, 2001
For: HAND TOOL THE "ASSIST STICK"

In re Application of
Theresa Hatcher
Application No. 10/175,503
Filed: 18 June, 2002
For: HAND TOOL "THE ASSIST STICK"

DECISION GRANTING PETITION

This is a decision on the communication filed on 20 September, 2002, in Application No. 10/175,503, which is treated as a petition under 37 CFR 1.182 requesting that the file of application No. 10/175,503 be merged into the file of application No. 09/801,579.

Petitioner filed the original application papers on 9 March, 2001. The application was assigned application No. 09/801,579. On 18 March, 2002, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply. In response, on 18 June, 2002, petitioner submitted a substitute specification.[1] It appears that as a result of an error by the U.S. Patent and Trademark Office (the Office) the substitute specification filed on 18 June, 2002, was processed as a new application, assigned Application No. 10/175,503, and accorded a filing date of 18 June, 2002. A Notice to File Missing Parts of Nonprovisional Application was mailed on 5 August, 2002, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for its late filing.
In response, the above-identified communication was filed stating

[1]The reply filed on 18 June, 2002, identified Application No. 09/801,579 and did not state that a new application was intended to be filed. To avoid confusion in the submission of future amendments and replies, however, petitioner is referred to Section 714 of the Manual of Patent Examining Procedure (MPEP).

Copied from 10175503 on 03/22/2007

that petition intended to file only one application. The communication is therefore being treated as a request that the reply filed on 18 June, 2002, and assigned application No. 10/175,503 be merged into the file of Application No. 09/801,579 with the original application papers.

In view of the mistake by the Office in granting an application number to the reply filed on 18 June, 2002, it is appropriate to merge the files in order to correct an Office error. It is noted that Application No. 09/801,579 contains a non-final Office action. Application No. 10/175,503, however, has not been examined. Therefore, Application No. 10/175,503 will be merged into Application No. 09/801,579.

The petition is granted.

A search of the official file indicates that a $130.00 surcharge was paid in Application No. 10/175,503. Petitioner may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application is being returned to Application Processing Division for merging the file of Application No. 10/175,503 into the file of Application No. 09/801,579. Application No. 10/175,503 will no longer be an active application number. All future correspondence concerning this application should be directed to application No. 09/801,579.

Thereafter, Application No. 09/801,579 will be returned to Technology Center 3600 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Copied from 10175503 on 03/22/2007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Christopher Keith	: DECISION ON REQUEST FOR
Patent Number	: 7644027	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/801,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1613** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAILED

JAN 0 7 2005

Technology Center 2100

In re Application of:
Michael D. ARNER, et al.
Application No. 09/801,601
Filed: March 8, 2001
For: SYSTEM AND METHOD FOR EFFICIENT REMOTE OPERATION OF REAL-TIME GRAPHICAL APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 24, 2001.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAILED

JAN 12 2005

In re Application of:
Michael D. ARNER, et al.
Application No. 09/801,601
Filed: March 8, 2001
For: SYSTEM AND METHOD FOR EFFICIENT REMOTE OPERATION OF REAL-TIME GRAPHICAL APPLICATIONS

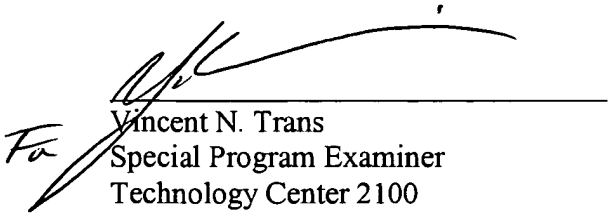
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 24, 2001.

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

The request is **GRANTED**.

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



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

cc: Marbles, Inc.
153A Rangeway Drive
aka SkyFire Technologies
P. O. Box 22
North Billerica, MA 01862-0901

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Gerald Francis McBrearty	: DECISION ON REQUEST FOR
Patent Number	: 7647402	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/801,612	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2803** 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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BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of :
Jan Gerben Wijnstra :
Application No. 09/801621 : DECISION ON PETITION
Filed: 8 March, 2001 :
Atty Docket No. NL000122 :

This is a decision on the petition filed on 6 February, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on 9 December, 2006, for failure to timely file corrected drawings in response to the Notice of Allowability mailed on 8 September, 2006, which set a

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

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

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

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

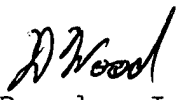
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

three (3) month statutory period for reply. Notice of Abandonment was mailed on 8 January, 2007.

Receipt of the corrected drawings is acknowledged.

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward L. Pencoske
Thorp Reed & Armstrong, LLP
One Oxford Centre, 14th Fl.
301 Grant St.
Pittsburgh PA 15219

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of
Keeth, et al.
Application No. 09/801,628
Filed: March 8, 2001
Attorney Docket No. DB000575-010
For: 256 MEG DYNAMIC RANDOM ACCESS MEMORY

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS", filed June 6, 2001 (certificate of mailing date June 4, 2001), requesting, in effect, partial withdrawal of the Notice to File Missing Corrected Application Papers(Notice), mailed April 30, 2001, insofar as it alleges that Figures 40A and 81A described in the specification were omitted. The petition will be treated under 37 CFR 1.53(e).

The Office apologizes for the delay in addressing the instant petition and regrets any inconvenience occasioned by the delay.

The application was filed on March 8, 2001. On April 30, 2001, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figures 40A and 81A described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 40A and 81A be accorded a filing date of March 8, 2001 on the basis that 367 sheets of drawing figures, including Figures 40A and 81A, were received in the Patent and Trademark Office (PTO) on March 8, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated bar code citing March 8, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 367 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 367 sheets of drawing figures were filed on March 8, 2001. MPEP 503. The undersigned counted the sheets of drawings filed on March 8, 2001 and found only 365. The two sheets missing corresponded to pages 157 and 296, which would have contained the allegedly omitted Figures 40A and 81A.

Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 20-0888.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 8, 2001, using the copy of Figures 40A and 81A and the abstract submitted with the instant petition. Office records will be corrected to show that 367 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/7/05

TO SPE OF : ART UNIT 2818 09/801,628

SUBJECT : Request for Certificate of Correction on Patent No.: 6,735,102

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.

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

Comments:

_____

_____

_____

_____

_____

HM
SPE

2827
Art Unit

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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JUL 05 2005

OFFICE OF PETITIONS

In re	:
Keronen, et al.	: DECISION REGARDING
Application No. 09/801,687	: PATENT TERM ADJUSTMENT
Filed: March 9, 2001	: AND
Patent No. 6,874,683	: NOTICE OF INTENT TO ISSUE
Issued: April 5, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed April 29, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **fifty (50) days**.

On April 5, 2005, the above-identified application matured into U.S. Patent No. 6,874,683. The patent issued with a Patent Term Adjustment of one hundred (100) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA.

A review of the file reveals that the Notice of Allowance was mailed on September 7, 2004. However, on December 10, 2004, applicants filed a petition for correction of inventorship under 37 C.F.R. § 1.48. The Office did not mail a notice in response to the petition until January 28, 2005. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(10), applicant delay of fifty (50) days should have been assessed.

In view thereof, the correct determination of patent term adjustment is **fifty (50)** (367 days of PTO delay, reduced by 317 days of applicant delay).

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

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **fifty (50) days,** subject to any disclaimers.

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

/Karin Ferriter/
for

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

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of
Bruce Matichuk
Application No. 09/801,795
Filed: March 9, 2001
Attorney Docket No. 90537-0001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 24, 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 June 25, 2001.

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 $1970 extension of time submitted with the petition on August 27, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

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

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

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

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

The application file is being forwarded to Technology Center AU 2184 for further processing.

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

cc:

Jon D. Grossman
Dickstein, Shapiro, Morin & Oshinshy LLP
2101 L Street NW
Washington, DC 20037-1526

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12/4/03

2 Serial/Patent # 09/801,795

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time 1255		8/27/03	$ 1970.
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1970.

8 TO BE REFUNDED BY:

	Treasury Check OC
X	Credit Deposit A/C #:

9 04-1073

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Filed after the expiration of the extension of time period.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Lynn Dingle TITLE: Paralegal

SIGNATURE: Lynn Dingle PHONE: 306-5684

OFFICE: Petitions

****

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APPROVED: [signature] DATE: 12/4/03

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OIPE JC154
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PATENT & TRADEMARK OFFICE

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Docket No.: C2450.0000/P002
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bruce Matichuk

Application No.: 09/801,795

Group Art Unit: 2184

Filed: March 9, 2001

Examiner: Not Yet Assigned

For: APPLICATION INTEGRATION SYSTEM AND METHOD USING INTELLIGENT AGENTS FOR INTEGRATING INFORMATION ACCESS OVER EXTENDED NETWORKS

PETITION TO REVIVE
UNINTENTIONALLY ABANDONED APPLICATION

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the provisions of 37 C.F.R. § 1.137(b), Applicant hereby petitions to revive the unintentionally abandoned application captioned above. The required reply to the Notice of Incomplete Reply dated November 15, 2001 in the form of electronically reproducible drawings, and preliminary amendment are being filed concurrently herewith. The entire delay in filing the required reply from the due date for the reply until the filing of this Petition was unintentional. Please charge the $1,300.00 Petition fee, as set forth in 37 C.F.R. § 1.17(m), and the $1,970.00 extension of time fee as set forth in 37 C.F.R. § 1.17(a)(5) to the undersigned attorneys' credit card. Form PTO-2038 is attached.

Adjustment date: 12/04/2003 AKELLEY
08/29/2003 AHOSSAFI 00000044 09801795
02 FC:1255 -1970.00 DP

1652356 v1; Z#YS01I.DOC

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Please charge any additional fees that may be required to effect proper filing of this Petition, or credit any overpayment, to Deposit Account No. 04-1073, under Order No. C2450.0000/P002.

Dated: August 26, 2003

Respectfully submitted,

By _____
Jon D. Grossman
Registration No. 32,699
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW
Washington, DC 20037-1526
(202) 785-9700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of :

MATICHUK :
Application No. 09/801,795 : DECISION ON PETITION
Filed: March 9, 2001 : TO WITHDRAW
Attorney Docket No. 90537-0001 : 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 30, 2006.

The request is **APPROVED**.

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

The request was signed by Celine J. Crowson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Bruce Matichuk at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRUCE MATICHUK, CTO**
CELCORP
2200, 10130-103 STREET
EDMONTON, ALBERTA T5J3N9
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

In re Application of
Tae-Young Kil
Application No. 09/801,807
Filed: March 9, 2001
For: **METHOD AND APPARATUS FOR ALARMING ON OCCURRENCE OF CELL SECESSION OF A MOBILE STATION IN A MOBILE COMMUNICATION SYSTEM**

DECISION ON PETITION
UNDER 37 CFR 1.181
FOR ENTRY OF AMENDMENT

This is a decision on the Petition pursuant to 37 C.F.R. § 1.181(a), filed October 19, 2004, requesting the Commissioner to invoke his supervisory authority and to direct the examiner to enter the After Final Amendment, filed August 19, 2004. No fee is required.

BACKGROUND

The Final Office Action mailed on May 19, 2004 required applicant to correct the minor informality of claim 31 by including the period missing at the end of claim 31. In addition, the Final Office Action included a rejection of claims 25-31 under 35 USC 103 as being unpatentable over the combination of McClelland et al. (U.S. Patent Number 6,330,438 B1) in view of Khan et al. (U.S. Patent Number 5,926,760) and further in view of Hong (U.S. Patent Number (6,298,241).

An Amendment After Final was filed on August 19, 2004 in response to the May 19, 2004 Final Office Action. The Amendment After Final cancelled claims 25-31 and added new claims 32-35 substituted for claims 25-31.

An Advisory Action was mailed on October 6, 2004 in response to the Amendment After Final. The Advisory action denied entry of the proposed amendment because it was not deemed that the proposed amendment placed the application in better form for appeal by materially reducing or simplifying the issues for appeal.

The petitioner contends that new claims 32-35 were rewritten to improve their clarity without changing their scope. In addition, the petitioner reasons that minor informalities including those noted by the examiner were corrected thus meeting all of the statutory requirements of 35 USC 112 as to form.

REGULATIONS AND PRACTICE

MPEP § 714.12 states in part that:

> Once a final rejection that is not premature has been entered in the case, applicant or patent owner no longer has any right to unrestricted further prosecution... Any amendment that will place the case either in condition for allowance or in better form for appeal may be entered. Also amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a).

37 CFR § 1.116(a) and (b) state that:

> (a) After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or save the application from abandonment under § 1.135.
> (b) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon showing of good and sufficient reasons why they are necessary and were not earlier presented.

MPEP § 714.13 states in part that:

> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after final rejection (see 37 CFR 1.116) or reinstate previously rejected claims.
> ... compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to:
>
> (A) an amendment complying with 37 CFR 1.116;
> (B) a Notice of Appeal (and appeal fee); or
> (C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e. , an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e).
>
> ... An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

MPEP § 1207 states in part that:

> To expedite the resolution of cases under final rejection, an amendment filed at any time after final rejection but before an appeal brief is filed, may be entered upon or after filing of an appeal provided the total effect of the amendment is to (1) remove issues from appeal, and/or (2) adopt examiner's suggestions. Of course, if the amendment necessitates a new search, raises the issue of new matter, presents additional claims without canceling a corresponding number of finally rejected claims, or otherwise introduces new issues, it will not be entered.

OPINION

37 CFR 1.116(b) states in part that "amendments [after final] may be made canceling claims **or** complying with any requirement of form expressly set forth in a previous Office Action". 37 CFR 1.116(b) also states that "amendments presenting rejected claims in better form for consideration on appeal may be admitted".

In the instant application, the amendment is not entered as a matter of right as evidenced by the examiner's Advisory Action. The amendment to claim 32 (lines 12, 15, 18, 22 and 24) and claim 34 (lines 7, 15 and 18-19) requiring comparing "in the base station", determining the power level and the registration of the mobile station "in the base station", transmitting cell secession information "from the base station" and an analyzer "arranged within the base station" changes the scope of the claims as well as fails to materially reduce or simplify the issues for appeal.

Compliance with the requirement of form set forth in the Final Office Action only required applicant to place a period at the end of claim 31.

DECISION

A review of the file record indicates that the proposed After Final Amendment to claim 32 (lines 12, 15, 18, 22 and 24) and claim 34 (lines 7, 15 and 18-19) requiring comparing "in the base station", determining the power level and the registration of the mobile station "in the base station", transmitting cell secession information "from the base station" and an analyzer "arranged within the base station" was not presented prior to the issuance of the Final Office Action. Subsequently, the After Final Amendment raises new issues requiring further consideration and/or search.

Accordingly, the petition is **DENIED.**

The Advisory Action, mailed October 6, 2004 inadvertently failed to indicate that new issues were also raised by the Amendment After Final, filed August 19, 2004. Accordingly, the examiner has generated a Supplemental Advisory Action, which is attached herewith.

Any inconvenience to applicant is regretted.

The application file is being returned to await Appellant's Brief.

Reinhard Eisenzopf, Acting Director
Technology Center 2600
Communications
(703) 305-9700

Enclosure: Supplemental Advisory Action

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 20

John W. Ryan
Dechert LLP
1775 I Street, N. W.
Suite 1100
Washington, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Michael Stroble, et al. :
Application No. 09/801,908 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. 833970.0002 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 7, 2004, 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 "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

A Notice of Non-Compliance (Notice) was mailed to applicant on May 16, 2003 setting a one-month within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on June 17, 2003.

---

[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.

Petitioner asserts in the instant petition that the Notice was not received and that a change of address and Power of Attorney were filed on June 18, 2003, which was ultimately accepted by the USPTO on July 24, 2003. Petitioner further states a Status Inquiry was filed on July 31, 2003. A review of the file record discloses that a change of address was filed on May 27, 2003. The file record also confirms receipt of the Power of Attorney filed June 18, 2003 and the Notice of Acceptance of the Power of Attorney mailed on July 24, 2003. However, there is no record of the Status Inquiry which petitioner states was filed on July 31, 2003. Absent a certificate of mailing under 37 CFR 1.8 or postcard receipt, it cannot be concluded whether the Status Inquiry was actually filed with the USPTO.

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. § 151 and 37 CFR 1.137(a).

Petitioner has not provided a copy of the docket record from the firm to which the Office action was sent, nor has petitioner provided a copy of the docket record from the new firm. In view thereof, the showing of record does not establish that the delay in this case was unavoidable. MPEP 711.03(c) in pertinent part states:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the petitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action."

In view of the above, petitioner should provide a copy of the docket records where the Office action would have been recorded had it been received.

Petitioner may want 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 $665 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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 22

Dechert LLP
1775 Eye Street, N. W.
Washington, DC 20006

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Michael Strobel, et al. :
Application No. 09/801,908 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. 833970.0002 :

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

The petition is **GRANTED.**

The showing of record is sufficient to establish to the satisfaction of the Commissioner that the delay in filing a reply to the outstanding Office action was unavoidable.

Petitioner submitted a second petition fee with the instant petition. However, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

The application file is being forwarded to Technology Center 1600.

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

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

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JJGJr: 09-03

Paper No: 19

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Vogeli, et al. :
Application No. 09/801,944 : DECISION ON PETITION
Filed: 8 March, 2001 :
Attorney Docket No. 00100.US1 :

This is a decision on the papers filed on 23 July, 2003 and considered under:

- 37 C.F.R. §1.10 (a paper apparently previously sought to be filed as a renewed petition on 20 September, 2001) requesting that the above-identified application be accorded a filing date of 8 March, 2001, rather than 28 February, 2001 (as set forth on the stamped receipt card) and 18 October, 2001 (as set forth on a second Filing Receipt).37 C.F.R. §1.10; and

- 37 C.F.R. §1.53 requesting that pages 72 through 78 be accorded a the filing date of 8 March, 2001.

NOTE: It is noted that the mailing address utilized by Counsel/Petitioner herein is different from that of record in the Office, and further that no Notice of Change of Address is apparent of record.

If Petitioner desires to receive future correspondence regarding this application to the mailing address in Petitioner's most recent papers, the appropriate Notice must be submitted. A courtesy copy of this decision will be mailed to Petitioner.

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

The petition as considered under:

- 37 C.F.R. §1.10 is **GRANTED** and the fee waived; and
- 37 C.F.R. §1.53 is **GRANTED** and the fee waived.

BACKGROUND

The record indicates that:

- Petitioner Gwilym Attwell (Reg. No. 45,449) alleges that the application was deposited in US Postal Service (USPS) Express Mail service on 8 March, 2001, under Express Mail No. EL568028411US, but due to Office error, the return receipt card incorrectly reflected both the application number[1] and the filing date;
- after the date-stamped receipt card was returned by the Office to Petitioner with not only an incorrect file number but also an erroneous filing date of 28 February, 2001, Petitioner filed a petition on 16 April, 2001, seeking to obtain the 8 March, 2001, filing date;
- in the meantime the filing receipt was mailed on 20 July, 2001, and reflected the filing date of 8 March, 2001, and application number (09/801,944)
- as a result, the 16 April, 2001, petition was dismissed as moot on 20 August, 2001;
- however, in separate mailing on 20 July, 2001, the Office forwarded to Petitioner a Notice of Missing Parts (Filing Date Granted) addressing the unsigned oath/declaration, as well as the damaged computer-readable disk--moreover, the Notice also indicated that pages 72 - 78 of the specification (description and claims) appeared to be missing from the application, and Petitioner either could:

  --accept the filing date of 8 March, 2001, without pages 72 - 78 of the specification (description and claims) of the application, or

  --submit within two (2) months pages 72 - 78 of the specification (description and claims) of the application with a petition for its inclusion and accept the date of filing of that submission and petition;

- it appears that Petitioner may have attempted to file via USPS Express Mail (Label No.

---

[1] Another serial number--that of 09/794,058, which was the application number for a now-patented case filed, in fact on 28 February, 2001--appears erroneously on the receipt card identified with this Express Mail number and these inventors.

EL650276866US) a second petition regarding the filing date on 20 September, 2001, however, Petitioner's file copy of that paper now submitted carries no date stamp from the Office and there is neither a date-stamped receipt card or a date-stamped copy of the Express Mail label;

- a copy of the Notice to File Missing Parts date stamped as filed with the Office on 18 October, 2001, with a finance notation of a $130.00 petition fee (and Office finance records also reflect payment for a one- (1-) month extension of time) paid by check and accounted for on 23 October, 2001, and appears to been Petitioner's reply to the Notice with a copy of the oath/declaration and the computer readable disk;

- thereafter, a Notice of Incomplete Reply mailed on 22 January, 2002, set forth a filing date of 18 October, 2001, and indicates, *inter alia*, that the computer disk is damaged;

- as reflected by a date-stamped receipt card, Petitioner filed a reply to the Notice of Incomplete Reply on 19 February, 2002;

- the instant petition is supported, *inter alia*, by the statement of Petitioner; and:

  --what is indicated to be a true copy of Express Mail label No. EL568028411US attached, with a "date in" of "3/8/01" and a USPS date stamp of "8 MAR 2001"; and

  --what is indicated to be a copy of receipt card and (as noted above bearing the wrong file number and wrong filing date) and the six- (6-) page application transmittal for the instant application, both of which evidence the Express Mail label No. EL568028411US, the title of the claimed invention and the named inventors.

Further, the copy of the date-stamped receipt card (marked by the Office with the incorrect application number and filing date but properly identified by Petitioner with USPS Express Mail Label Number EL568028411US) sets forth the following items were filed among the pages of the specification (description and claims) and received by the Office:

> Paper: Patent Application transmittal letter in dup.; Specification including claims and abstract pages 1-173; Unexecuted declaration; Statement to Support Filing and Submission in Accordance with 37 CFR §§ 1.821 through 1.825; paper copy of the Sequence Listing pages 1-160; Computer Readable Copy of the Sequence Listing; Check in the amount of $4,674.00; all via express mail no." EL568028411US
>
> Applicant(s): Gabriel Vogeli and Linda S. Wood

Title: Novel G Protein-Coupled Receptors

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that pages 72 - 78 of the specification (description and claims) were subsequently misplaced in the Office.

CONCLUSION

Accordingly, the petition under:

- 37 C.F.R. §1.10 is **granted** and
- 37 C.F.R. §1.53 is **granted**.

The Notice mailed on 20 July, 2001, hereby is withdrawn as to pages 72 - 78 of the specification (description and claims) as described in the specification.

Therefore, as to the instant nonprovisional application, Application No. 09/801,944, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 8 March, 2001; and
- issue a filing receipt specifying the filing date as that of 8 March, 2001, using:

  --Pages 1 - 71 and 79 - 173 of specification (description and claims) filed on 8 March, 2001; and

  --Pages 72 - 79 of the specification (description and claims), supplied on 18 October, 2001, with an indication on the PALM bib data sheet that 173 pages of the specification (description, claims and abstract) were present on filing.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

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

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

cc:
Gwilym Attwell
Cozen O'Connor, PC
1900 Market St.
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: 20

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MACKIEWICZ & NORRIS LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of
Vogeli, et al.
Application No. 09/801,944
Filed: 8 March, 2001
Attorney Docket No. 00100.US1

DECISION ON PETITION

This is a decision on the papers filed on 4 August, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application as abandoned due to unintentional delay, and in light of the allegations (timely filing in response to the Notice of Incomplete Reply) considered as a petition to withdraw the holding of abandonment under 37 C.F.R. §1.181.

NOTE: It is noted that the mailing address utilized by Counsel/Petitioner herein is different from that of record in the Office, and further that no Notice of Change of Address is apparent of record.

If Petitioner desires to receive future correspondence regarding this application to the mailing address in Petitioner's most recent papers, the appropriate Notice must be submitted. A courtesy copy of this decision will be mailed to Petitioner.

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

The petition as considered under:

- 37 C.F.R. §1.181 is **DISMISSED**; and

- 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner Gwilym Attwell (Reg. No. 45,449) alleges that the application was deposited in US Postal Service (USPS) Express Mail service on 8 March, 2001, under Express Mail No. EL568028411US, but due to Office error, the return receipt card incorrectly reflected both the application number[1] and the filing date;

- after the date-stamped receipt card was returned by the Office to Petitioner with not only an incorrect file number but also an erroneous filing date of 28 February, 2001, Petitioner filed a petition on 16 April, 2001, seeking to obtain the 8 March, 2001, filing date;

- in the meantime the filing receipt was mailed on 20 July, 2001, and reflected the filing date of 8 March, 2001, and application number (09/801,944), and--as a result-- the 16 April, 2001, petition was dismissed as moot on 20 August, 2001;

- however, in separate mailing on 20 July, 2001, the Office forwarded to Petitioner a Notice of Missing Parts (Filing Date Granted) addressing the unsigned oath/declaration, as well as the damaged computer-readable disk--moreover, the Notice also indicated that pages 72 - 78 of the specification (description and claims) appeared to be missing from the application, and Petitioner either could:

  --accept the filing date of 8 March, 2001, without pages 72 - 78 of the specification (description and claims) of the application, or

  --submit within two (2) months pages 72 - 78 of the specification (description and claims) of the application with a petition for its inclusion and accept the date of filing of that submission and petition;

- it appears that Petitioner may have attempted to file via USPS Express Mail (Label No. EL650276866US) a second petition regarding the filing date on 20 September, 2001, and while Petitioner's file copy of that paper now submitted carries no date stamp from the Office and there is neither a date-stamped receipt card or a date-stamped copy of the Express Mail label, the file does contain a copy of the Notice to File Missing Parts date

[1] Another serial number--that of 09/794,058, which was the application number for a now-patented case filed, in fact, on 28 February, 2001--appears erroneously on the receipt card identified with this Express Mail number and these inventors.

stamped as filed with the Office on 18 October, 2001, with a finance notation of a $130.00 petition fee (and Office finance records also reflect payment for a one- (1-) month extension of time) paid by check and accounted for on 23 October, 2001;

- thereafter, a Notice of Incomplete Reply mailed on 22 January, 2002, set forth a filing date of 18 October, 2001;

- while the Notice of Incomplete Reply reminded Petitioner that the time period for reply to the original 20 July Notice to File Missing Parts, it also indicated that extensions of time were available;

- as reflected by a date-stamped receipt card, Petitioner filed a reply to the Notice of Incomplete Reply on 19 February, 2002, with the required items under the Notice, and therein Petitioner requested and authorized the fee for a five- (5-) month extension of time.

Those materials were not matched with the file at that time.

Notably, however, one item not apparently listed on any of the date-stamped receipt cards as having been filed of record prior to the 4 August, 2003, filing is the executed oath/declaration of the inventors.

Petitioner filed with the instant petition an additional copy of, *inter alia*, the computer readable disk and of the executed oath/declaration.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

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

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[2] 35 U.S.C. §133 provides:

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

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

the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to Withdraw
the Holding of Abandonment

Petitioner contends that, *inter alia*, the Office error as to the application number and the USPS treatment of mail in the wake of an anthrax attack triggered the abandonment. However, as is clear, Petitioner acknowledged receipt of the Notice of Missing Parts and simply failed to file timely the executed oath/declaration of record.

Because Petitioner alleges that the holding of abandonment was improper, the instant petition is considered in light of the regulations at 37 C.F.R. §1.181.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

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

---

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

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

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

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

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

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

Moreover, 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.[9]

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.[10]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[11]

Petitioner simply failed to file a timely and proper response to the Notice.

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

Allegations as to the Petition to Revive
Following Unintentional Delay

Petitioner has filed the petition (with fee), submitted the reply to the Notice of Missing Parts (disk and oath/declaration), and made the statement of unintentional delay.

Petitioner has satisfied the requirements of a petition under 37 C.F.R. §1.137(b).

CONCLUSION

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

Because Petitioner has satisfied the requirements of 37 C.F.R. §1.137(b), the petition hereby is **granted**.

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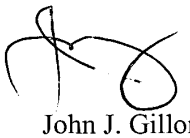
[9] See MPEP 711.03(c)(III)(C)(2).

[10] 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).

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

The instant application is being forwarded to OIPE for correction of data regarding filing date issues addressed in separate decision. Thereafter, the file will be forwarded for examination in due course.

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



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

cc:
Gwilym Attwell
Cozen O'Connor, PC
1900 Market St.
Philadelphia, PA 19103

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Paper 8

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
46TH FLOOR
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Mackiewicz & Norris LLP

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AUG 2 3 2001
Janet Griffin
WWKMN

In re Application of
Vogeli, et al.
Application No. 09/801,944
Filed: 8 March, 2001
Attorney Docket No. 00100.US1

DECISION DISMISSING
PETITION AS MOOT

This is a decision on the petition under ¶(c) of 37 C.F.R. §1.10[1] filed on 16 April, 2001

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[1] The regulations at 37 C.F.R. §1.10 provide:

§1.10 Filing of papers and fees by "Express Mail."

(a) 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).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; 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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(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";

(and again via FAX on 6 August, 2001), requesting that the above-identified application be accorded a filing date of 8 March, 2001 (rather than 28 February, 2001).

The petition is **DISMISSED as moot**.

Petitioner alleges and Office records reflect that the application was deposited in US Postal Service (USPS) Express Mail service on 8 March, 2001, under Express Mail No. EL56802841US.

However, due to Office error, the return receipt card incorrectly reflected both the application number and the filing date.

(Nonetheless, the filing receipt--mailed later--reflects the correct filing date and application number.)

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

No petition fee is required and the $130.00 petition fee paid is being credited to Deposit Account No. 23-3050.

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

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

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(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

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SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVE, SUITE 6300
SEATTLE, WA 98104-7092

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OFFICE OF PETITIONS

In re Application of :
Nobuyuki Itoh et al :
Application No. 09/801,968 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. PP-17150.001/201130.409 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 21, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item(1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action has to be a Notice of Appeal and the requisite fee, or an RCE. A courtesy copy of the Advisory Action is enclosed.

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

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

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $980 extension of time submitted with the petition on November 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEATTLE, WA 98101-1688

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OFFICE OF PETITIONS

In re Application of :
Nobuyuki Itoh et al :
Application No. 09/801,968 : ON PETITION
Filed: March 7, 2001 :
Attorney Docket No. 60219-4/PP-17150.001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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

This matter is being referred to Technology Center 1647 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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Paper No. 12

GREGORY W. CARR
CARR & STORM, L.L.P.
900 JACKSON STREET
670 FOUNDERS SQUARE
DALLAS, TX 75202

In re Application of
Turner, William Frank
Application No. 09/801,972
Filed: March 8, 2001
Attorney Docket No. WEATH 1371001

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 6, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 7, 2001. A Notice of Abandonment was mailed on March 26, 2002.

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

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address submitted with the instant petition on November 10, 2003, is hereby not accepted. Although petitioner properly submitted the Statement under 37 CFR 3.73(b), it is not complete. In this regard, the 3.73(b) does not include the reel and frame number showing the chain of title from the inventor(s), of the patent application above, to the current assignee. Petitioner may also submit any documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office.

In view of the nonacceptance of the power of attorney submitted on November 10, 2003, 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 above-identified application has been abandoned for an extended period of time. The Patent

and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Karen Creasy

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

cc: Michael A. Ervin
M. A. Ervin & Associates
8202 Talbot Cove
Austin, TX 78746

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

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Paper No. 5

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

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OFFICE OF PETITIONS

In re Application of
Yasuo Tarui, et. al.
Application No. 09/801,990
Filed: March 8, 2001
Attorney Docket No. F-6888

PETITION GRANTED

This is a decision on the petition under 37 CFR 1.137(b) filed October 23, 2003, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The above-identified application was erroneously abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 13, 2003. Since Office records reveal that an executed Oath/Declaration and authorization to charge $130 for the surcharge were timely filed on April 10, 2001, the abandonment is hereby **WITHDRAWN**.

Petitioner should note that per authorization given on April 10, 2001, the $130 required for the late filing of the Oath/Declaration will be charged to petitioner's deposit account.

The application file is being forwarded to the Office of Initial Patent Examination for further processing, using the Oath/Declaration filed on April 10, 2001.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

Mail Date: 06/11/2010

Applicant	: Masahiro Hinami	: DECISION ON REQUEST FOR
Patent Number	: 7628688	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/801,996	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

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

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

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Paper No.

RHONDA L. SHELDON
TROP, PRUNER & HU, P.C.
8554 KATY FREEWAY
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DEC - 6 2004

In re Application of :
Randolph E. Crutchfield :
Application No. 09/802,032 : DECISION ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. ITL.0534US(P10839) :

This is a decision on the petition filed September 1, 2004, requesting that the final Office action dated July 23, 2004 be vacated and a new Office action be issued.

The petition is **GRANTED**.

Petitioner asserts that the Office action of July 23, 2004 is procedurally incorrect and, thus, requests that the examiner issue a new Office action.

Petitioner's arguments are persuasive. Accordingly, the Office action dated July 23, 2004 is hereby vacated.

The application filed is being returned to the examiner for prompt, appropriate action. No further response is required form the applicant at this time.

Telephone inquires should be directed to Paula Bradley at (571) 272-2800 ext 33.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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Paper No. 6

ROBERT F. GAZDZINSKI
ATTORNEY OF RECORD
3914 MURPHY CANYON ROAD, SUITE A232
SAN DIEGO, CA 92123

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OFFICE OF PETITIONS

In re Application of	:	
Strong & Davis	:	
Application No. 09/802,046	:	DECISION REFUSING STATUS
Filed: 8 March, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. ARC.009A	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 24 September, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 8 March, 2001, without an executed oath or declaration. Accordingly, on 21 May, 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 24 September, 2001 (certificate of mailing date 20 September, 2001), petitioners submitted the present petition, accompanied by the petition fee, surcharge, a petition and payment of the extension

fee for a two (2) month extension of the time for reply to the "Notice", and a declaration naming Paul Strong and Henry A. Davis as joint inventors and signed by joint inventor Davis on behalf of himself and joint inventor Strong.

Petitioners assert that Strong refuses to sign and return the declaration for the present patent application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor. The correspondence accompanying the petition shows only that the declaration was sent to Strong. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

---

[1] MPEP 409.03(d).

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

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

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

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at 703-308-6918.

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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United States Patent and Trademark Office
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Paper No. 9

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JUN 03 2002

OFFICE OF PETITIONS

ROBERT F. GAZDZINSKI
ATTORNEY OF RECORD
3914 MURPHY CANYON ROAD, SUITE A232
SAN DIEGO, CA 92123

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MAY 03 2002

CANCELLED

OFFICE OF PETITIONS

In re Application of :
Strong & Davis : DECISION NOTING JOINDER OF
Application No. 09/802,046 : INVENTOR AND PETITION UNDER
Filed: 8 March, 2001 : 37 CFR 1.47(a) MOOT
Attorney Docket No. ARC.009A :

Papers filed on 12 February, 2002 (certificate of mailing date 15 January, 2002), in response to the decision mailed on 15 November, 2001, included a Declaration signed by the previously non-signing joint inventor, Paul Strong, 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 will be forwarded to Technology Center 2100 for examination in due course.

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 10 2006

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of :
Guerit, et al. : DECISION GRANTING PETITION
Application No. 09/802,103 : UNDER 37 CFR 1.137(b)
Filed: March 8, 2001 :
Atty. Dkt. No.: AT-14 :

This decision is in response to the petition under 37 CFR 1.137(b), filed June 22, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the non-final Office action mailed November 8, 2002. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed June 18, 2003.

A grantable petition under 37 CFR 1.137(b) requires submission of: (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 37 CFR 1.137(d).

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Technology Center 3600 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

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

YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK, NY 10174

Mail Date: 04/20/2010

Applicant	: Daniel Mattias Larsson	: DECISION ON REQUEST FOR
Patent Number	: 7620622	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/802,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2001	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Naomi Go et al :
Application No. 09/802,133 : DECISION GRANTING PETITION
Filed: March 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 204258US6 :

This is a decision on the petition, filed June 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Morris E. Cohen
Suite 217
1122 Coney Island Avenue
Brooklyn NY 11230

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OFFICE OF PETITIONS

In re Application of :

Robert Getts :

Application No. 09/802,162 : DECISION ON PETITION

Filed: August 27, 2007

Attorney Docket No. 4081.005

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed January 24, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was not received within the allowable period and the application became abandoned on April 25, 2007. A Notice of Abandonment was mailed on August 22, 2007.

The Request for Continued Examination filed August 27, 2007, is noted.

Deposit account 50-1604 will be charged $1500.00 for the petition fee and $790.00 for the fee for the Request for Continued Examination.

The application file is being forwarded to Technology Center 1600, GAU 1637 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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JUL 27 2001

OFFICE OF PETITIONS
A/C PATENTS

BRENDA POMERANCE, ESQ.
260 WEST 52 ST., APT. 27B
NEW YORK, NY 10019

In re Application of
Keith
Application No. 09/802,169
Filed: March 8, 2001
Attorney Docket No. 0505-4012

: DECISION GRANTING
: PETITION

This is a decision on the petition filed on May 21, 2001, which is being treated as a petition under 37 CFR 1.181, requesting that the imposition of a surcharge for late filing of a declaration be withdrawn.

The petition is GRANTED.

The application was filed on March 8, 2001. On April 17, 2001, the Initial Patent Examination Division (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") stating that the oath or declaration was missing from the filed application, and that a $65 surcharge for late filing of the oath or declaration must be submitted along with the oath or declaration. On April 27, 2001, Applicant responded to this Notice by advising the Office that a signed declaration had been filed with the application on March 8, 2001. On May 7, 2001, OIPE mailed a Notice of Incomplete Reply indicating that the April 27, 2001 reply was incomplete for not having included the $65 surcharge.

In response, the present petition is filed wherein Petitioner contends that a signed Declaration was filed on March 8, 2001 along with the remainder of the application. In support, Petitioner has supplied a copy of Applicant's postcard receipt which acknowledges receipt by the Office on March 8, 2001 of, *inter alia*, a signed Declaration. The petition is thus granted.

The Notices mailed on April 17, 2001 and May 7, 2001 are hereby withdrawn.

The $65 surcharge paid with the present petition will be refunded. No petition fee is owed.

In addition, the Office acknowledges receipt on May 21, 2001 of 3 documents and the accompanying certificate of transmission for another invention under Application No. PCT/US01/10725. These documents (in duplicate) have been forwarded to the Office of Patent Cooperation Treaty (PCT) as requested.

The application is being returned to the Initial Patent Examination Division for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OCT - 5 2004

OFFICE OF THE DIRECTOR
TC 3600

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

In re application of :
Ari Juels :
Application No. 09/802,278 : **DECISION ON REQUEST**
Filed: March 8, 2001 : **FOR WITHDRAWAL OF**
For: TARGETED DELIVERY OF INFORMATIONAL : **ATTORNEY**
CONTENT WITH PRIVACY PROTECTION

This is a decision on the request filed on March 8, 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 A) above.

As to condition A), it is not clear that the signing attorney Ira V. Heffan is signing on behalf of all the listed attorneys. It is suggested that the signing attorney withdraw on behalf of himself and all attorneys of record if that is the intent of the request.

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

SNM/vdb: 9/30/04

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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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OFFICE OF PETITIONS

ON PETITION

In re Application of
James O. Burke
Application No. 09/802,284
Filed: March 8, 2001
Attorney Docket No. 70/72

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).

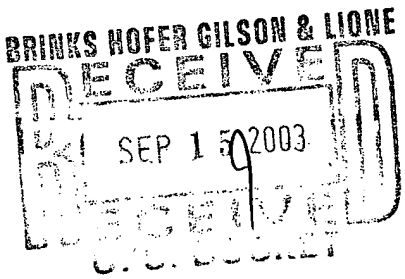
Petitioner is advised that the issue fee paid on July 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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

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OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of :
Kiyoshi Sato, Toshinori Watanabe, Hideki Gochou, :
Kiyoshi Kobayashi, Toru Takahashi, Hisayuki : DECISION REFUSING STATUS
Yazawa, and Masaki Ikegami : UNDER 37 C.F.R. §1.47(a)
Application No. 09/802,314 :
Filed: March 8, 2001 :
Attorney Docket No. 9281/3900 :
Title: THIN-FILM MAGNETIC HEAD :
APPROPRIATELY SUPPRESSING SIDE :
FRINGING AND METHOD FOR FABRICATING :
THE SAME :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 16, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 8, 2001, without an executed oath or declaration and identifying Kiyoshi Sato, Toshinori Watanabe, Hideki Gochou, Kiyoshi Kobayashi, Toru Takahashi, Hisayuki Yazawa, and Masaki Ikegami as joint inventors. Accordingly, on April 13, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63, as well as the statutory basic filing fee of $710, the fee for filing a late oath or declaration of $130. This Notice set a two-month period for reply.

---

[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.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration, as well as the filing fee [2]. To make timely this reply, applicant also filed a request for a two (2) month extension of time (and fee, which was also charged to the Deposit Account). Accompanying the petition was a statement by attorney Jasper Dockrey, a declaration executed by the first six named inventors, unsigned copies of the employment agreement between the non-signing inventor and his employer, Alps Electric Company (Alps), a declaration executed by Toshiya Takemoto, the Business Planning Office Manager of the Magnetic Devices Division of Alps, and a declaration executed by Junji Kobayashi, an employee of the Engineering Administration Department of the Magnetic Division of Alps who is also "in charge of patents".

Rule 47 applicant has met requirements (1) - (5) above.

The statement of Jasper Dockrey, as well as the declarations of Toshiya Takemoto and Junji Kobayashi establish that the non-signing inventor died before his signature could be obtained on the declaration. The two declarants contacted the heirs of the deceased, Hiromi Ikegami and Chiaki Ikegami, and requested that they execute the declaration on behalf of the deceased. Unfortunately, when the two heirs met with Mr. Takemoto at Alps and were presented with the complete application, both refused to sign the declaration.

Regarding item (6) above, the petitioner has not included an acceptable oath or declaration. The submitted declaration is deficient in that it fails to list the name, post office address, and citizenship of the non-signing inventor. The declaration submitted along with the instant petition does not list the deceased non-signing inventor, but rather lists both of his heirs as joint inventors. This is not acceptable, in that 37 CFR 1.63(a)(2) requires that each inventor be identified on the declaration. In situations where an inventor has died and his heirs or legal representative is required to execute the document on his behalf, the proper course of action is explained in the section of 65 FR 54604 included below, and should assist the petitioner in drafting his renewed petition.

> *Section 1.44:* Section 1.44 is removed and reserved to eliminate the requirement that proof of the power or authority of the legal representative be recorded in the Office or filed in an application under §§ 1.42 or 1.43. Although proof of authority is no longer required to be submitted to the Office, applicants may wish to consider obtaining proof of authority of the legal representative and recording such a document with any assignment documents for record-keeping purposes. **In order to make a patent application on behalf of a deceased or incapacitated inventor, the legal representative may now simply sign the § 1.63 oath or declaration (which includes the full name and citizenship of the deceased inventor as well as the residence and mailing address, if not provided on an application data sheet) as the legal representative of the particular inventor with the title "Legal Representative" placed under the signature. In other words, in a signature block containing the deceased or incapacitated inventor's name, the legal representative will sign "for" the deceased or incapacitated inventor supplying the representative's name and stating that he or she is the legal representative. In addition, the legal representative should provide his or her mailing address so that the Office can directly communicate with the legal representative if necessary. See § 1.64(b).**
>
> The deletion of the § 1.44 proof requirement for the legal representative of §§ 1.42 and 1.43 will be effective on the date of publication in the Federal Register with § 1.64 as to all pending papers under §§ 1.42 and 1.43 that have not had the proof requirement satisfied. If a requirement for proof of authority has been made by an examiner, the requirement can be satisfied by a reply referencing this final rule.

---

[2]These fees have been charged to petitioner's Deposit Account, as authorized in the petition.

Thus, on renewed petition, applicant must submit a declaration that is in compliance with 37 CFR 1.63.

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 regarding 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
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Paper No. 8

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

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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Kiyoshi Sato, Toshinori Watanabe, Hideki	:	
Gochou, Kiyoshi Kobayashi, Toru	:	
Takahashi, Hisayuki Yazawa, and Masaki	:	
Ikegami	:	
Application No. 09/802,314	:	DECISION ON RENEWED
Filed: March 8, 2001	:	PETITION UNDER
Attorney Docket No. 9281/3900	:	UNDER 37 C.F.R. §1.47(a) and
Title: THIN-FILM MAGNETIC HEAD	:	PETITION UNDER
APPROPRIATELY SUPPRESSING	:	37 C.F.R. §1.55(c)
SIDE FRINGING AND METHOD FOR	:	
FABRICATING THE SAME	:	

This is in response to the renewed petition under 37 CFR §1.47(a)[1], filed February 14, 2002, and the petition under 37 C.F.R. §1.55(c).

The office regrets the delay in the issuance of this decision.

Regarding the renewed petition under 37 C.F.R. §1.47(a), the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR

1 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.

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 March 8, 2001, without an executed oath or declaration and identifying Kiyoshi Sato, Toshinori Watanabe, Hideki Gochou, Kiyoshi Kobayashi, Toru Takahashi, Hisayuki Yazawa, and Masaki Ikegami as joint inventors. Accordingly, on April 13, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63, as well as the statutory basic filing fee of $710, the fee for filing a late oath or declaration of $130. This Notice set a two-month period for reply.

The original petition, filed on August 16, 2001, was dismissed in a decision mailed on October 10, 2001, for failure to establish requirement (6) above. The petition stated that the non-signing inventor had died, and that his two heirs had signed the declaration on his behalf. The decision indicated that the declaration was not acceptable, in that it failed to list the deceased non-signing inventor, and instead listed both of his heirs as joint inventors. This is not acceptable, in that 37 CFR 1.63(a)(2) requires that each inventor be identified on the declaration. The following section of 66 FR 54604 was included.

> *Section 1.44:* Section 1.44 is removed and reserved to eliminate the requirement that proof of the power or authority of the legal representative be recorded in the Office or filed in an application under §§ 1.42 or 1.43. Although proof of authority is no longer required to be submitted to the Office, applicants may wish to consider obtaining proof of authority of the legal representative and recording such a document with any assignment documents for record-keeping purposes. In order to make a patent application on behalf of a deceased or incapacitated inventor, **the legal representative may now simply sign the § 1.63 oath or declaration** (which includes the full name and citizenship of the deceased inventor as well as the residence and mailing address, if not provided on an application data sheet) as the legal representative of the particular inventor with the title "Legal Representative" placed under the signature. In other words, in a signature block containing the deceased or incapacitated inventor's name, the legal representative will sign "for" the deceased or incapacitated inventor supplying the representative's name and stating that he or she is the legal representative. In addition, the legal representative should provide his or her mailing address so that the Office can directly communicate with the legal representative if necessary. See § 1.64(b).
>
> The deletion of the § 1.44 proof requirement for the legal representative of §§ 1.42 and 1.43 will be effective on the date of publication in the Federal Register with § 1.64 as to all pending papers under §§ 1.42 and 1.43 that have not had the proof requirement satisfied. If a requirement for proof of authority has been made by an examiner, the requirement can be satisfied by a reply referencing this final rule.

With the instant petition, petitioner had included two-month extension of time to make timely this response, as well as a declaration which properly lists the non-signing inventor, as well as his two heirs, and they are indicated as such. Unfortunately, these two heirs have failed to sign the declaration. As such, this renewed petition must be dismissed.

Regarding the petition filed under 37 CFR §1.55(c), requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing

date of foreign Application No. 2000-065288 (Japanese Patent Application), filed on March 9, 2000, the petition is **GRANTED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) 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); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on March 8, 2001, which is after November 29, 2000 and within 12 months of (the filing date of the foreign application to which benefit is now being claimed). On September 17, 2001, an **unexecuted** oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,280.00 was received with the petition. Regarding the statement of unintentional delay, 37 C.F.R. §1.55(c)(2) requires a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.55(c)(2), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.55(c)(2) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition. All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 USC 119(a) through (d) is granted.

This application is being forwarded to Technology Center 2600 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 USC 119(a) through (d) and 37 CFR 1.55(c).

The reply to this letter may be submitted by mail[2,3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

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

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

2 Commissioner for Patents, Box DAC, Washington, DC 20231.
3 **Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office will change to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.**
4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

5 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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OFFICE OF PETITIONS

In re Application of
Kiyoshi Sato, Toshinori Watanbe, Hideki Gochou, Kiyoshi Kobayahsi, Toru Takahashi, Hisayuki Yazawa, and Masaki Ikegami
Application No. 09/802,314
Filed: March 8, 2001
Attorney Docket No. 9281/3900
Title: THIN-FILM MAGNETIC HEAD APPROPRIATELY SUPPRESSING SIDE FRINGING AND METHOD FOR FABRICATING THE SAME

DECISION ON PETITIONUNDER 37 C.F.R. §1.47(a)

This is in response to the submission which was transmitted via facsimile transmission on March 24, 2003, and was only recently forwarded to the undersigned.

The above-identified application was filed on March 8, 2001, without a fully executed oath or declaration and identifying Kiyoshi Sato, Toshinori Watanbe, Hideki Gochou, Kiyoshi Kobayahsi, Toru Takahashi, Hisayuki Yazawa, and Masaki Ikegami as joint inventors. On April 13, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, the statutory basic filing fee of $710, and the fee for filing a late oath or declaration of $130. This Notice set a two-month period for reply.

The original petition, filed on August 16, 2001, was dismissed via a decision mailed on October 10, 2001, for failure to submit an acceptable declaration. The petition stated that the non-signing inventor had died, and that his two heirs had signed on his behalf. Unfortunately, the declaration was not acceptable, as it failed to list the deceased non-signing joint inventor, and instead listed both heirs as joint inventors.

With the renewed peititon, petitioner submitted a declaration which listed both heirs properly, but they failed to execute the declaration.

With the submission of March 24, 2003, Petitioner has established that the two heirs are legal representatives of the deceased inventor. Petitioner has previously established that they have refused to execute the declaration.

As such, 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

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

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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DEC 0 1 2006

OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

In re Application of
Sato et al.
Filed March 8, 2001
Application No. 09802,314
Attorney Docket No. 9281/3900

: DECISION GRANTING LETTER

This decision is in response to Applicants' 'REQUEST FOR REVIEW OF THE PATENT TERM ADJUSTMENT" filed on May 9, 2005 requesting that the USPTO review the PTA determination at the time of the mailing of the notice of allowance.

Applicant's letter concerning PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect this determination of PTA. A copy of the adjusted PTA calculation is provided with this determination. The correct amount of PTA at the time of the mailing of the decision is **320** days.

Applicant asserts that the USPTO may have granted too much PTA at the time of the notice of allowance. Applicant requests review of the PTA determination but did not provide any assert any specific reason for the discrepancy.

A review of the record reflects that applicant is correct. The Office failed to reduce applicants' PTA for two events. First, applicants filed a response to the notice to file missing parts on August 16, 2001.[1] This delay amounted to 34 days. In addition, the reply submitted was noncompliant and accordingly, applicant did not file the drawings until April 15, 2002, a 242-day delay pursuant to 37 CFR 1.704(c)(7).[2] Accordingly, the 66-day reduction that the Office assessed overlaps with the reduction for the two periods enumerated supra and therefore the 66-day reduction is removed. The Office properly calculated the 630-day reduction under 37 CFR 1.702(a)(1). In addition, the Office properly calculated the thirty-four day reduction under 37 CFR 1.704(b) for the reply to the final rejection. Accordingly, the correct amount of PTA is three hundred and twenty (630-242-34-34=320) days at the time of the mailing of the notice of allowance.

---

[1]Applicant did not reply to the notice until 8/16/2001, a delay of 34 days beyond three months. It is noted that the notice to file missing parts provides a two-month reply period. However, applicants are provide three-months to reply to this notice regardless of the shortened statutory period set here.

[2]The reduction began the day after the initial response on 8/17/2001 and ended on the day the response was completed, April 15, 2002.

The USPTO acknowledges that any delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be added at the time of the issuance of the patent and will be reflected in the PTA determination provided to applicant in the issue notification letter.

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

If applicant believes that the Office erred in calculating the PTA for reasons other than provided in this decision, applicant may provide further clarification as to the inaccuracy of such calculation.

Because applicants were providing good faith and candor notice as to the amount of PTA, no fee is being assessed.

Any questions concerning this decision should be directed to Alesia Brown, Office of Patent Petitions at 571-272-3205.

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

cc: Adjusted PAIR calculation

Day : Thursday
Date: 11/30/2006

PALM INTRANET

Time: 12:32:40

PTA Calculations for Application: 09/802314			
Application Filing Date:	03/08/2001	PTO Delay (PTO):	630
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	100
Post-Issue Petitions:	0	Total PTA (days):	320
PTO Delay Adjustment:	-210		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	132		
86	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		276	
85	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		66	
65	03/11/2005	MAIL NOTICE OF ALLOWANCE			
64	03/11/2005	MAIL FORMAL DRAWINGS REQUIRED			
63	03/07/2005	ISSUE REVISION COMPLETED			
62	03/07/2005	FORMAL DRAWINGS REQUIRED			
61	03/07/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	03/07/2005	NOTICE OF ALLOWABILITY			
57	02/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	02/24/2005	DATE FORWARDED TO EXAMINER			
55	02/17/2005	AMENDMENT AFTER FINAL REJECTION			
53	02/17/2005	WORKFLOW INCOMING AMENDMENT IFW			
52	10/29/2004	REFERENCE CAPTURE ON IDS			
51	10/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	12/15/2004	DATE FORWARDED TO EXAMINER			
49	11/05/2004	AMENDMENT AFTER FINAL REJECTION		34	38
48	11/05/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	12/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
46	12/11/2004	FINAL REJECTION			
45	11/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
44	10/12/2004	MAIL ADVISORY ACTION (PTOL - 303)			
43	10/07/2004	ADVISORY ACTION (PTOL-303)			

42	10/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
41	10/05/2004	DATE FORWARDED TO EXAMINER			
40	08/27/2004	AMENDMENT AFTER FINAL REJECTION			
39	08/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
38	07/02/2004	MAIL FINAL REJECTION (PTOL - 326)			
37	06/28/2004	FINAL REJECTION			
36	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	34
35	06/09/2004	DATE FORWARDED TO EXAMINER			
34	05/28/2004	RESPONSE AFTER NON-FINAL ACTION			
33	05/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	03/15/2004	MAIL NON-FINAL REJECTION			
31	03/11/2004	NON-FINAL REJECTION			
30	03/08/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/17/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
28	02/24/2004	DATE FORWARDED TO EXAMINER			
27	02/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
26	02/12/2004	APPLICATION DISPATCHED FROM OIPE			
25	02/12/2004	APPLICATION IS NOW COMPLETE			
24	09/17/2001	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		66	5
23	09/17/2001	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
22	01/28/2004	MAIL RESTRICTION REQUIREMENT	630		-1
21	01/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/24/2003	MISCELLANEOUS INCOMING LETTER			
18	11/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	11/26/2003	DISPATCH FROM OIPE TO CORPS - U-P-R-D APPLICATION			
16	09/17/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	09/17/2001	SUBSTITUTE SPECIFICATION FILED			
14	07/23/2003	PETITION DECISION - GRANTED			
13	03/24/2003	PETITION ENTERED			

12	05/21/2003	PETITION DECISION - GRANTED			
11	05/21/2003	PETITION DECISION - DISMISSED			
10	02/14/2002	PETITION ENTERED			
9	02/14/2002	PETITION ENTERED			
8	10/10/2001	PETITION DECISION - DISMISSED			
7	08/16/2001	PETITION ENTERED			
5	04/13/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/26/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/08/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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P.O. BOX 10395
CHICAGO, IL 60610

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DEC 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,167,340 :
Issued: January 23, 2007 : DECISION ON PATENT TERM
Application No. 09/802,314 : ADJUSTMENT and NOTICE OF
Filed: March 8, 2001 : INTENT TO ISSUE CERTIFICATE
Dkt. No.: 9281/3900 : OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 6, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,167,340 on January 23, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 543 days. Patentee argues that the application is entitled to an adjustment of 1842 days.

An overall adjustment of 1101 days can be attributed to the Office (630 days under 37 CFR 1.702(a)(1) and 471 days under 37 CFR 1.702(a)(4).

The adjustment of 1101 days is properly reduced a total of 550 days for failure to engage in reasonable efforts to conclude prosecution.

As reflected in the decision mailed December 1, 2006, the pre-allowance reductions are as follows: 34 days in accordance with 37 CFR 1.704(b) in connection with the reply filed August 16, 2001; 242 days in accordance with 37 CFR 1.704(c)(7) in connection with the reply submitted April 15, 2002; and 34 days in accordance with 37 CFR 1.704(b) in connection with the reply filed November 5, 2004.

The post-allowance reductions are: 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS filed October 18, 2005 and 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS filed July 3, 2006.

Therefore, at the time of issuance, the patent was entitled to an adjustment of 551 days (adjustment of 1101 days less reductions of 550 days).

Patentees argue that the application is entitled to additional adjustment under 37 CFR 1.702(b) for failure to issue the patent within three years from the date upon which the application was filed.

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).

Herein, the period of adjustment under 37 CFR 1.702(a) not only overlaps, but actually exceeds the period beyond three years from the date that the application was filed. As such, the patent is not entitled to any additional adjustment pursuant to 37 CFR 1.702(b).

Thus, at the time of issuance, the patent was entitled to an adjustment of 550 days.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 551 days.

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

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

Enclosure: Draft Certificate of Correction

Day : Thursday
Date: 12/27/2007

PALM INTRANET

Time: 11:19:28

PTA Calculations for Application: 09/802314			
Application Filing Date:	03/08/2001	PTO Delay (PTO):	1101
Issue Date of Patent:	01/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	348
Post-Issue Petitions:	0	Total PTA (days):	551
PTO Delay Adjustment:	-202		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
105	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
100.5	01/03/2007	PTA 36 MONTHS			
100	01/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	471		90
99	12/11/2006	RECEIPT INTO PUBS			
98	12/05/2006	DISPATCH TO FDC			
97	06/09/2005	ISSUE FEE PAYMENT VERIFIED			
96	12/05/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
95	12/05/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
94	12/05/2006	DISPATCH TO FDC			
93	12/05/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
92	12/05/2006	TC RETURN TO PUBS			
91	07/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	06/09/2005	ISSUE FEE PAYMENT VERIFIED			
88	12/01/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
88	12/01/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
87	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO			
87	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	132		
86	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO			
86	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		276	

85	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO			
85	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		66	
84	07/03/2006	REFERENCE CAPTURE ON IDS			
83	07/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	81
82	05/19/2005	PETITION ENTERED			
81	07/10/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
79	10/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
77	12/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
76	05/19/2005	MISCELLANEOUS INCOMING LETTER		120	81
75	11/16/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
74	10/18/2005	REFERENCE CAPTURE ON IDS			
73	10/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	81
72	10/25/2005	RECEIPT INTO PUBS			
71	10/25/2005	RECEIPT INTO PUBS			
69	07/08/2005	RECEIPT INTO PUBS			
68	06/09/2005	ISSUE FEE PAYMENT RECEIVED			
67	04/13/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
66	03/18/2005	EXPORT TO INITIAL DATA CAPTURE			
65	03/11/2005	MAIL NOTICE OF ALLOWANCE			
64	03/11/2005	MAIL FORMAL DRAWINGS REQUIRED			
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42	10/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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38	07/02/2004	MAIL FINAL REJECTION (PTOL - 326)			
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36	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	34
35	06/09/2004	DATE FORWARDED TO EXAMINER			
34	05/28/2004	RESPONSE AFTER NON-FINAL ACTION			
33	05/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	03/15/2004	MAIL NON-FINAL REJECTION			
31	03/11/2004	NON-FINAL REJECTION			
30	03/08/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/17/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
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27	02/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
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24	09/17/2001	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		66	5
23	09/17/2001	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
22	01/28/2004	MAIL RESTRICTION REQUIREMENT	630		-1
21	01/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

19	07/24/2003	MISCELLANEOUS INCOMING LETTER			
18	11/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	11/26/2003	DISPATCH FROM OIPE TO CORPS - U-P-R-D APPLICATION			
16	09/17/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	09/17/2001	SUBSTITUTE SPECIFICATION FILED			
14	07/23/2003	MAIL-PETITION DECISION - GRANTED			
13	03/24/2003	PETITION ENTERED			
12	05/21/2003	MAIL-PETITION DECISION - GRANTED			
11	05/21/2003	MAIL-PETITION DECISION - DISMISSED			
10	02/14/2002	PETITION ENTERED			
9	02/14/2002	PETITION ENTERED			
8	10/10/2001	MAIL-PETITION DECISION - DISMISSED			
7	08/16/2001	PETITION ENTERED			
5	04/13/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/26/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/08/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,167,340 B2
DATED	:	January 23, 2007
INVENTOR(S)	:	Sata, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 543 days

Delete the phrase "by 543 days" and insert – by 551 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

FEB 07 2007

OFFICE OF PETITIONS

In re Application of :
Mary A. Metelko et al :
Application No. 09/802,353 : DECISION ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. TI-30802 :

This is a decision on the petition under 37 CFR 1.182, filed, September 12, 2006, to change the name of inventor "Mary DuVal to – Mary A. Metelko --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2152 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/802,353	03/09/2001	2152	912	TI-30802	1	24	2

CONFIRMATION NO. 7441

23494
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

CORRECTED FILING RECEIPT
OC000000022360740
OC000000022360740

Date Mailed: 02/06/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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)

Mary A. Metelko, Farmers Branch, TX;
Thomas M. Siep, Garland, TX;
Frank J. Moizio, Dallas, TX;
Lars Yoder, Plano, TX;

Power of Attorney: The patent practitioners associated with Customer Number **23494**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/191,287 03/21/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/23/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/802,353

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wireless data transport of internet content to display device

Preliminary Class

709

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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OCT 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

W. Wayt King, Esq.
WAYT KING & ASSOCIATES
1923 Old Village Run
Dunwoody, GA 30338

In re application of : **DECISION ON PETITION**
Michael E. Last : **TO MAKE SPECIAL**
Application No. 09/802,367 : **(INFRINGEMENT)**
Filed: March 9, 2001
For: SYSTEM AND METHOD FOR POSTING AVAILABLE TIME SLOTS TO A NETWORK HUB

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 30, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 30, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

SNM/ekn 10/15/03

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JUN 28 2007

TECHNOLOGY CENTER 3600

Alston & Bird
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of
Michael Last
Appl. No. 09/802,367
Filed: March 9, 2001
For: SYSTEM AND METHOD FOR POSTING AVAILABLE TIME SLOTS TO A NETWORK HUB

ON PETITION TO Withdraw Rejection **UNDER** 37CFR1.181(a)

This is a decision on Applicant's Petition under 37 CFR 1.181(a) filed on July 21, 2006 to have the "Examiner's new grounds of rejection stricken from the record, to regard the objective evidence of nonobviousness as unrefuted and therefore conclusively proven, and to decide the Appeal on this basis".

The Petition is dismissed as **MOOT** in view of the Notice of Allowance of the application mailed on May 3, 2007.

The application has been forwarded to the Office of Publication for issuance of the Patent.

Any questions regarding this decision should be directed to John Weiss at 571-272-6812.

Wynn Coggins
Director 3600
Technology Center 3600
571-272-5350

WC/jw 3/5/07

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HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

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OFFICE OF PETITIONS

In re Application of :
Nazir Ahmad, ETAL :
Application No. 09/802,375 :
Filed: March 9, 2001 :
Attorney Docket No. CPAC 1002-1US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 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 13 April 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) was obtained. Accordingly, the application became abandoned at midnight on July 13, 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; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed July 15, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being referred to Technology Center 2800, Art Unit 2811 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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

In re Application of
Chang-Meng Hsiung et al.
Application No. 09/802,377
Filed: March 9, 2001
Attorney Docket No. 185641-008010US

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.

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 Initial Patent Examination Unit.

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

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Paper No. 19

TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

APR 1 3 2004

Technology Center 2100

In re Application of:
Hsiung, Chang-Meng
Application No. 09/802,377
Filed: March 9, 2001
For: CONTROL FOR AN INDUSTRIAL PROCESS USING ONE OR MORE MULTIDIMENSIONAL VARIABLES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 12, 2004.

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

The signer of the petition, Joseph R. Snyuder is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant.

James R. Matthews

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 6

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAIL

NOV 2 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/802,394

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).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: BeVocal, Inc.
685 Clyde Avenue
Mountain View, CA 94043-2213

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 12

BEVOCAL, INC
685 CLYDE AVENUE
MOUNTAIN VIEW, CA 94043-2213

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
John E. Fitzpatrick, et al. :
Application No. 09/802,394 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. BVOCP013 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 22, 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 January 23, 2004.

The Revocation of Power of Attorney filed with the present petition is not accepted. In the instant case, Tacey Bourne, Assistant Secretary, has not satisfactorily established ownership of the property to the satisfaction of the Commissioner.

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

record until such time as appropriate Power of Attorney documentations are received to the contrary. A blank 37 CFR 3.73(b) accompanies this decision.

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

The application file is being forwarded to Technology Center 2600, Art Unit 2655 for further processing.

Retta Williams

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

Attachment to cc: Blank Copy of 3.73(b) form.

cc: Kevin J. Zilka
Zilka-Kotab, PC
P. O. Box 721120
San Jose, CA 95172-1120

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#13

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

mail date = Dec. 31, 2002

Catherine M. Sanders
KNOBBE MARTENS OLSON & BEAR LLP
2040 main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of	:	
Moser et al	:	
Serial No.: 09/802,397	:	PETITION DECISION
Filed: March 9, 2001	:	
Attorney Docket No.: DECLE55.1CP2DV	:	

This is in response to applicant's Petition To Make Special under 37 CFR § 1.102, filed September 27, 2002, based upon special status under MPEP § 708.02 X.

Applicant's statement has been carefully considered. The requirment of MPEP 708.02 X is met. Accordingly, petition is **GRANTED**.

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
Special Program Examiner, TC 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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OFFICE OF PETITIONS

In re Application of
Brian Cox, Brandt Haagensen and Do Kim
Application No. 09/802,452
Filed: March 9, 2001
Atty Docket No. NAI1P136/00.120.01
Title: SYSTEM AND METHOD FOR REMOTE MAINTENANCE OF HANDHELD COMPUTERS

DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is in response to the "PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS Pursuant to 37 C.F.R. §1.47(a)," filed March 9, 2001 (and resubmitted June 2, 2005). The petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on March 9, 2001, with a declaration executed by joint inventors Cox and Haagensen on behalf of themselves and on behalf of non-signing inventor Kim and the instant petition. Applicants assert that status under § 1.47(a) is proper because inventor Kim refused to sign the declaration for patent.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, 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.

By declaration of patent attorney Cindy S. Kaplan, applicants have shown that inventor Kim has refused to join in the application after having been presented with the application papers. The petition includes payment of the petition fee. The last known address of inventor Kim is deemed to be as set forth on the declaration.

The declaration filed March 9, 2001, and the petition have been reviewed and are both found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) 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.

Telephone inquiries regarding 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
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Paper No. **10**

GODFREY & KAHN SC
780 NORTH WATER STREET
MILWAUKEE WI 53202

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JUN 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Kenneth J. Ruchala et al	:	
Application No. 09/802,468	:	DECISION GRANTING PETITION
Filed: March 9, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 066744-0012	:	

This is a decision on the petition, filed May 29, 2002 and supplemented on June 13, 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 March 11, 2002. 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 26, 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 2623 for examination in due course.

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

ATTACHMENT: Corrected Filing Receipt

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JUL 1 1 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
David Corts, et al. :
Application No. 09/802,469 : DECISION ON REQUEST TO
Filed: 03/09/2001 : WITHDRAW AS ATTORNEY
Attorney Docket No. 5040/00002 :
For: SYSTEM FOR IMPLEMENTING RADIO COMMERCE :

This is a decision on the request to withdraw as attorney of record filed April 23, 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 all the above-listed requirements. The request is **GRANTED**.

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

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

cc: David Corts- President
Impulse Radio, Inc.
826 Broadway
New York, NY 10003

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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OIW Jun-05

DAVID CORTS
IMPULSE RADIO, INC
826 BROADWAY
NEW YORK NY 10003

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Corts et al. :
Application No. 09/802,469 : ON PETITION
Filed: 9 March, 2001 :
Atty Dckt No. 5040/00002 :

This is a decision on the petition filed on 10 May, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 16 July, 2004, for failure to timely file a response to Office action requiring restriction mailed on 15 June, 2004, which set a one (1) month shortened

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

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

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

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

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

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 23 February, 2005.

Petitioners assert unavoidable delay in that the Office action mailed on 15 June, 2004, was never received because it was sent to an incorrect correspondence address.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners asserts that the Office action mailed on 15 June, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, 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 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 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 to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

While a review of the record reveals that the Office action mailed on 15 June, 2004, was in fact returned to the Office as undeliverable, the showing is further that the Office action was properly addressed to David Corts, Chief Executive Officer, Impulse Radio, Inc., 826 Broadway, New York, NY 10003: the address provided in the Request for Withdrawal as Attorney or Agent, and the address provided in the E-mail from inventor Corts to then-attorney of record Ernest V. Linek. As such, the showing of record is that the USPTO properly mailed the Office action to the address provided by petitioners, but that the address provided by petitioners was no longer valid. Failure to provide a proper correspondence address is not grounds for withdrawal of

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[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).

the holding of abandonment. As such, the showing is that there was no irregularity in the mailing of the Office action mailed on 15 June, 2005. Rather, petitioners failed to provide the Office with a current correspondence address. In fact, petitioners have still filed a change of correspondence address. As such, the failure to receive the Office action is the fault of petitioners and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

If petitioners have evidence that they attempted to provide the correct correspondence address to the Office prior to the mailing of the Office action mailed on 15 June, 2004, petitioners may wish to consider submitting said evidence with a renewed petition.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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[3] 35 U.S.C. § 133.

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally,

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As stated above, the showing of record is that the failure to receive the Office action mailed on 15 June, 2004, occurred because petitioners failed to provide the proper correspondence address with Request for Withdrawal as Attorney or Agent. 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.[7]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

[7] See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

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

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $750.00 for a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

The address listed on the present petition is different than the correspondence address listed in Office records. A courtesy copy of this decision is being forwarded to the address on the petition. All future correspondence, however, will be mailed solely to the address of record. If petitioners' address has changed, a Change of Correspondence Address should be filed. A copy of the form to change the correspondence address is enclosed.

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Form PTO/SB/122
Privacy Act Statement

Cc: Paul Signorelli
241 East 76th Street, Apt. 2D
New York NY 10021

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Ira V. Haffan
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAILED

MAR 1 8 2004

Technology Center 2100

In re Application of:
Kaliski, Jr.
Application No. 09/802,485
Filed: March 09, 2000
For: SYSTEM AND METHOD FOR INCREASING THE SECURITY OF ENCRYPTED SECRETS AND AUTHENTICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 08, 2004.

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

The request filed March 08, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Eric L. Prahl, Esq.
HALE AND DORR LLP
60 State Street
Boston, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAINWOOD, HUANG & ASSOCIATES, LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

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SEP 17 2008

In re Application of	:	
Kaliski, Burton S. Jr.	:	
Application No. 09/802,485	:	DECISION ON PETITION
Filed: March 9, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1048-006	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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 reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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 nonprovisional application was filed on March 9, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/188,458, which was filed on March 10, 2000, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both

> applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1410.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's deposit account.

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

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Kaliski, Burton S. Jr.
Application No. 09/802,485
Filed: March 9, 2001
Attorney Docket No. 1048-006

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/188,458, filed March 10, 2000, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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 provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/188,458, which was filed on March 10, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), 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)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any 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 AU 2453 for appropriate action on the amendment submitted November 18, 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/188,458.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
09/802,485	03/09/2001	2435	1476	1048-006	42	6

CONFIRMATION NO. 5894

CORRECTED FILING RECEIPT

80360
Bainwood, Huang & Associates, LLC
2 Connector Road
Westborough, MA 01581

Date Mailed: 03/17/2009

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)

Burton S. Kaliski JR., Wellesley, MA;

Power of Attorney: The patent practitioners associated with Customer Number 47654

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/188,458 03/10/2000

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review
Non-Publication Request: No
Early Publication Request: No
Title

System and method for increasing the security of encrypted secrets and authentication

Preliminary Class

713

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, DC 20231
www.uspto.gov

Paper No. 5
MAIL

NOV 2 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application Serial No.:
09/802,493

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).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: BeVocal, Inc.
685 Clyde Avenue
Mountain View, CA 94043-2213

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
Guerra et al. :
Application No. 09/802,493 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. BVOC020 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 1, 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 August 19, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 20, 2003. A Notice of Abandonment was mailed January 27, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

NOV 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,024,364 :
Issue Date: April 4, 2006 :
Application No.09/802,493 : NOTICE
Filed: March 9, 2001 :
Attorney Docket No. BVOCP020 :

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.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Tina M Lessaani 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.

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.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: TINA LESSANI
THE LAW OFFICE OF TINA M. LESSANI
220 TURNBERRY ROAD
HALF MOON BAY, CA 94019

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

NOV 2 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,024,364 :
Issue Date: April 4, 2006 : DECISION ON PETITION
Application No. 09/802,493 : TO WITHDRAW
Filed: March 9, 2001 : FROM RECORD
Attorney Docket No. BVOCP020 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on January 8, 2009.

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

Pursuant to the Official Gazette: Change in Procedure for Requests to Withdraw from Representation in a Patent Application, any Requests filed after a patent has issued will be placed in the file but will generally not be treated on their merits. Sections 2540 and 2542 of the Manual of Patent Examining Procedure (MPEP) explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented file and to direct notices, receipts and other communications relating to maintenance fees. Sections 2540 and 2542 of the MPEP recommend the designation of a "fee address" or the submission of a change in the correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, "Fee Address" Indication Form and Form PTO/SB/123, entitled, Change of Correspondence Address, Patent.

The change in practice in this notice applies to Requests filed on or after May 12, 2008.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
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. 4

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

COPY MAILED

JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Chang-Meng B. Hsiung et al. :
Application No. 09/802,512 :
Filed: March 9, 2001 :
Attorney Docket No. 18564I-007910US :

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

Paper No. 4

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 26 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Chang-Meng B. Hsiung et al. :
Application No. 09/802,519 :
Filed: March 9, 2001 :
Attorney Docket No. 18564I-007810US :

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 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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAILED

JAN 0 4 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 3

Murphey & Murphey, A.P.C.
701 Palomar Airport Drive
Suite 260
Carlsbad, California 92009

In re Application of: Debi Whitson	)	
Application No. 09/802,546	)	
Filed: March 9, 2001	)	**DECISION ON REQUEST FOR**
For: PROCESS OF INTERFACING A PATIENT DIRECTLY WITH THEIR OWN ELECTRONIC MEDICAL RECORDS	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed December 18, 2001

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

The request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Ms. Debi Whitson
26005 East 317
Harrison, Missouri 64701

UNITED STATES 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 LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK KS 66210

COPY MAILED

NOV 25 2008

OFFICE OF PETITIONS

In re Application of
Debra Castille
Application No. 09/802,546
Filed: March 9, 2001
Attorney Docket No. 36357

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, September 19, 2008, to change the name of inventor "Debi Whitson" to – Debra Castille --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3626.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
09/802,546	03/09/2001	3626	355	36357	17	1

CONFIRMATION NO. 8651

CORRECTED FILING RECEIPT

23589
HOVEY WILLIAMS LLP
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210

Date Mailed: 11/24/2008

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 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)

Debra Castille, Harrisonville, MO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/20/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/802,546**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Process of interfacing a patient indirectly with their own electronic medical records

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
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Alexandria, VA 22313-1450
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JUL 2 1 2006

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Jaroslav Hynecek :
Application No. 09/802,556 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. ISE103

This is a decision on the "Petition to Accept Fee (No Penalty) filed May 22, 2006. The petition will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

Petitioner is allowed a period for response of two-months from the mailing date of this decision. The response should be titled "Renewed Petition to Withdraw the Holding of Abandonment" Extensions of the time set for reply are available pursuant to 37 CFR 1.136.

The above-identified application became abandoned for failure to reply to the final Office action mailed November 17, 2005, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the period set for reply were available pursuant to 37 CFR 1.136. An amendment was filed responsively on March 27, 2006, but was not entered because it presented new matter. It is noted that the response of March 27, 2006, was not accompanied by a request for an extension of time within the second month, which would have been necessary in order for the response to be considered timely. An Advisory Action mailed April 12, 2006 notified petitioner of that fact. No further responses were received within the allowable period. Although a Notice of Abandonment has not yet been mailed, the subject application became abandoned on February 18, 2006, by operation of law.

By the instant petition, petitioner argues that the holding of abandonment should be withdrawn and the Request for Continued Examination filed May 22, 2006, be recognized as timely received because petitioner did not receive the Advisory Action mailed April 12, 2006, because the USPTO allegedly mailed the Advisory Action to an incorrect address. Petitioner indicates that that a request to change the correspondence address was filed on January 27, 2005, and that the USPTO entered the change but, for some unknown reason, changed the correspondence address back to the old address at a later date. A review of the application file did not reveal a change of correspondence address filed around January 27, 2005. Further, petitioner has not established, by *prima facie* evidence, that the request to change the correspondence address was filed in January 2005. Such *prima facie* evidence would include either a copy of a certificate of mailing dated January 27, 2005, that accompanied the request for change of correspondence address or an itemized postcard date-stamped by the USPTO whereby the USPTO acknowledges receiving the request for change of correspondence address. Absent sufficient evidence to the contrary, both the final Office action and Advisory Action are deemed to have been sent to the correct correspondence address and petitioner's failure to file a timely response to the final Office action is cause

for the abandonment of the application. The petition is dismissed and the application is currently in an abandoned status. Petitioner may file a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment or a petition under 37 CFR 1.137(b) to revive the application.

It is further noted that a change to the power of attorney and correspondence address for this application was filed on June 27, 2006. As such, Mr. John Vandigriff, who filed the instant petition, is no longer of record in the application. A courtesy copy of this decision is being mailed to Mr. Vandigriff, but no further communications relative to this application will be sent to Mr. Vandigriff.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
John E. Vandigriff
1660 S. Stemmons Frwy., Suite 300
Lewisville, Texas 75067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lexmark International, Inc.
Intellectual Property Law Department
740 West New Circle Road
Bldg. 082-1
Lexington, KY 40550-0999

COPY MAILED

MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Joseph D. Beaven, et al. :
Application No. 09/802,577 : ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. LE9-00-081 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on March 30, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on July 1, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

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 Theodore D. Lienesch 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. Lienesch 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.

Additionally, it is not apparent whether Mr. Lienesch 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.

Furthermore, 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 slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being forwarded to Technology Center 2100.

Marianne E. Jenkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DNV 10-01

Paper No. 7

MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO, CA 92101

COPY MAILED

OCT 15 2001

OFFICE OF PETITIONS

In re Application of	:	
Santhoff & Arrieta	:	
Application No. 09/802,590	:	DECISION ACCORDING STATUS
Filed: 9 March, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 32129-1005	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 20 August, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Rodolfo T. Arrieta, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of John Santhoff establishes that the inventor was personally presented with a copy of the application papers but refused orally to sign the declaration naming him as a joint inventor along with John Santhoff. Additionally, the declaration of Patricia L. Gullickson establish that the inventor was subsequently sent a copy of the application papers but failed to return an executed declaration.

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 in the petition, not the declaration.

Notice of the filing of this application will also be published in the Official Gazette.

Counsel's deposit account, No. 02-0410, will be charged the petition fee of $130.00 as authorized on the transmittal letter accompanying the present petition.

The application is being forwarded to Technology Center 2600 for examination in due course.

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 10-01

Paper No. 8

Rodolfo T. Arrieta
3616 Oak Brook Lane
Panama City Beach, FL 32408

COPY MAILED

OCT 15 2001

OFFICE OF PETITIONS

In re Application of
Santhoff et al.
Application No. 09/802,590
Filed: 9 March, 2001
For: ENCODING AND DECODING ULTRA-WIDEBAND INFORMATION

Dear Mr. Arrieta:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. 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

MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO, CA 92101

UNITED STATES 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

Mitchell P. Brook
c/o LUCE, FORWARD, HAMILTON & SCRIPPS
11988 EL CAMINO REAL
SUITE 200
San Diego, CA 92130

COPY MAILED

APR 2 7 2004

OFFICE OF PETITIONS

In re Application of :
John Santhoff, et al. :
Application No. 09/802,590 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. 32129-1005 :

This is a decision on the petition, filed April 9, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b)/(f).

The petition is **DISMISSED** because it lacks the required petition fee pursuant to 37 CFR 1.17(m). Effective October 1, 2003, the fee for a petition to revive an unintentionally abandoned application was increased to $665. Applicant submitted $650 with the present petition. Accordingly, applicant is given ONE MONTH to submit the $15.00 balance of the petition fee.

Further, 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 Peter R. Martinez appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Martinez 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 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: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306

Any questions concerning this matter may be directed to the undersigned at (703) 305-9220.

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

cc: PETER R. MARTINEZ
1969 KELLOGG AVENUE
CARLSBAD, CA 92008

UNITED STATES 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. 27

PETER R. MARTINEZ
C/O PULSE-LINK, INC
1969 KELLOGG AVENUE
CARLSBAD, CA 92008

COPY MAILED

MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of
John Santhoff, et al.
Application No. 09/802,590
Filed: March 9, 2001
Attorney Docket No. 021-04

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed May 7, 2004, 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, as supplemented, is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 13, 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 August 19, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2631 for consideration of the response filed April 8, 2004.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO CA 92130

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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of
Santhoff, Arrieta & Miller
Application No. 09/802,603
Filed: March 9, 2001
Attorney Docket No. 39129-1009
For: MAPPING RADIO-FREQUENCY NOISE IN AN ULTRA-WIDEBAND COMMUNICATION SYSTEM

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

This is in response to the petition under 37 CFR 1.47(a), filed January 16, 2002 (certificate of mailing date October 23, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventors, Rodolfo T. Arrieta and Charles E. Miller, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of John Santhoff and Samantha Draper establish that the inventors were mailed or given the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

Pursuant to petitioner's authorization, deposit account no. 02-0410 was charged the $130.00 fee associated with filing a Rule 47 petition.

The Notice of Change of Attorney Address, submitted April 12, 2002, has been entered and made of record. All future correspondence concerning this application will be mailed to the above-identified correspondence address of record.

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

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

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES E MILLER
1421 PARKWAY DRIVE
PANAMA CITY BEACH FL 32404

COPY MAILED

MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of
Santhoff, Arrieta & Miller
Application No. 09/802,603
Filed: March 9, 2001
Attorney Docket No. 39129-1009
For: MAPPING RADIO-FREQUENCY NOISE IN AN ULTRA-WIDEBAND COMMUNICATION SYSTEM

LETTER

Dear Mr. Miller:

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.

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

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

E. Shirene Willis

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

ATTORNEY OF RECORD: MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO CA 92130

UNITED STATES 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

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO CA 92130

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of
Santhoff, et al.
Application No. 09/802,603
Filed: March 9, 2001
Attorney Docket No. 32129-1009 /022-8
For: MAPPING RADIO-FREQUENCY NOISE IN AN ULTRA-WIDEBAND COMMUNICATION SYSTEM

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed August 23, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed in a foreign country on December 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(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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of December 30, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 2631 to await reply to the non-final rejection mailed August 3, 2004.

E. Shirene Willis

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

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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APR 21 2006

OFFICE OF PETITIONS

In re Application of :
Alain Chiodini, et al. :
Application No. 09/802,609 : DECISION ON REQUEST
Filed: March 8, 2001 : TO WITHDRAW
Attorney Docket No. NBAN0004 : FROM RECORD
:

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

The request is **NOT APPROVED**.

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 cannot be approved because no reasons are given for the withdrawal.

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 Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN L. ROGITZ
ROGITZ & ASSOCIATES
750 B STREET, SUITE 3120
SAN DIEGO, CA 92101

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Kitsukawa et al.	:	
Application No. 09/802,632	:	ON PETITION
Filed: March 9, 2001	:	
Attorney Docket No. 50P4112.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and an Appeal Brief (previously submitted on May 10, 2006); (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 processing.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROCESSED BY
PG PUB DIVISION

JUL 0 3 2002

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

Applicant: Lichtman et al.
Appl. No.: 09/802,644
Filing Date: March 9, 2001
Title: METHOD FOR LABELING INDIVIDUAL CELLS
Pub. No.: US 2001/0039034 A1
Pub. Date: November 8, 2001

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on June 11, 2002 for the above-identified application.

The request is DISMISSED.

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 June 11, 2002 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.

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

3/10/2000

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Pre-Grant Publication Division
2231 Crystal Drive, Suite 905
Arlington, VA 22201
www.uspto.gov

July 15, 2002

PROCESSED BY
PG.PUB DIVISION
JUL 15 2002

Jeff Coulter
Reed Technology and Information Services, Inc.
275 Gibraltar Road
Horsham, PA 19044

RE: **Authorization of Corrections for A9 Publication**

Authorization is given to republish the following original application for the purpose(s) of modifying the specified text, images or other documentation, in order to correct publication inaccuracies and replicate the original application submission for the errors as noted below.

Patent Application Number: 09/802,644
Publication Number Reference: US20010039034A1

Projected A9 Export Date: 08/22/02
Projected Publication Date: 10/24/02

The following errors are referenced from the Senniger, Powers, Leavitt and Roedel letter titled, "Request for Corrected Publication received by OIPE on June 11, 2002.

1) See attachments "Request for Corrected Patent Application" and "Pub. No.: US20010039034A1" to reference specific examples and descriptions for errors that are approved for correction and are listed below:

a. Abstract, Specification, Claims

Reference: Attorney's Letter:

a. "all other information, including the abstract, specification, and claims are incorrect and appear to be from another unrelated application."

2) In accordance with Page III-37 of the 29Jan02 edition of the DATA PREPARATION MANUAL FOR PRE-GRANT PUBLICATION, the A9/P9 information document will specify the contents of the "See ..." line(s) that will be published under (15) Prior Publication Data on the front page of the A9 or P9 document.

The following information is for correction of US20010039034 A1 November 8, 2001:

See (57) Abstract, Specifications and Claims.

Jon Lachel
Pre Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

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SEP 30 2005

OFFICE OF PETITIONS

In re Patent No.: 6,869,772 :
Filing Date: March 22, 2005 : LETTER REGARDING PTA
Application No. 09/802,644 :
Filed: March 9, 2001 :
Atty. Dkt. No.: WSHU 2010.1 :

This letter is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT," filed May 5, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 41 days.

The above-identified identified application matured in to U.S. Pat. No. 6,869,772 on March 22, 2005. The patent issued with a PTA of 99 days. Patentees indicate that the adjustment accorded the patent is thought to be longer than appropriate. Patentees further indicate that the patent is entitled to an adjustment of 21 days.

A review of the application history reveals that an adjustment of 236 days can be attributed to the Office in accordance with 37 CFR 1.702(b) for failure to issue the patent within four months of receipt of the issue fee payment. In accorded with 37 CFR 1.703(b), the delay began July 30, 2004, the day after the date that is four months after the date the issue fee payment was received, ended March 22, 2005, the date of issuance of the patent. There were no further Office delays.

The adjustment of 236 days is reduced a total of 195 days, resulting in a PTA of zero. The reductions are as follows:

- Twelve (12) days in accordance with 37 CFR 1.704(c)(8) in connection with the petition filed June 11, 2002. The reduction began May 31, 2002, the day after the day a response to the restriction requirement was filed, and ended June 11, 2002, the day the petition was filed.

- Thirty (30) days in accordance with 37 CFR 1.704(b) in connection with the amendment submitted December 6, 2002. The reduction began November 7, 2002, the day after the date that is three months after the date the non-final Office action was mailed, and ended December 6, 2002, the date the amendment was filed.

- Thirty-three (33) days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed July 7, 2003. The reduction began June 5, 2003, the day after the date that is three months after the date that the final Office action was mailed, and ended July 7, 2003, the date the Notice of Appeal was filed.

- One hundred and twenty (120) days, the maximum number of days allowed by law, in accordance with 37 CFR 1.704(c)(10) in connection with the declaration filed March 29, 2004.

Accordingly, at the time of issuance, the adjustment of 236 days is properly reduced 195 days resulting in an overall adjustment of 41 days.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction to indicating that the above-identified patent has received an adjustment of 41 days.

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

Kerry Fuss
for

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRANH NGUYEN
1552 MAGNOLIA AVE.
ROHNERT PARK, CA 94928

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Tranh T. Nguyen :
Application No. 09/802,654 : ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 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 Office action mailed November 4, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 5, 2004.

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 matter is being forwarded to Technology Center AU 2817 for further processing.

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

cc:

Michael J. Donohue
1501 Fourth Avenue, Suite 2600
Seattle, WA 98101-1688

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAIL

NOV 2 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/802,662

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).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: BeVocal, Inc.
685 Clyde Avenue
Mountain View, CA 94043-2213

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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ZILKA-KOTAB,PC
P O BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Lisa Guerra et al :
Application No. 09/802,662 : DECISION GRANTING PETITION
Filed: March 9, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. BVOCP011 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to to the nonfinal Office action mailed September 15, 2003, which set an extendible three month shortened statutory period for reply. No reply or extensions of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the application became abandoned on December 16, 2003. A Notice of Abandonment was mailed on July 12, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of September 15, 2003 is accepted as having been unintentionally delayed.

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

The matter is being referred to Technology Center AU 2654 for such further action as the nature of the case requires.

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

JJGJr: 07-02

Paper No. 13

WOODCOCK WASHBURN
ATTENTION: SUZANNE E. MILLER ESQ.
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA PA 19103

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Roberds, et al. :
Application No. 09/802,668 : ON PETITION
Filed: 9 March, 2001 :
Attorney Docket No.: PHRM-0319 :

This is a decision on the petition filed on 1 April, 2002, styled "Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O. Response to 'Notice of Omitted Items' Nonprovisional Application" and considered under 37 C.F.R. §1.53 requesting that page 21 of the specification of the above-identified non-provisional application be accorded a filing date of 9 March, 2001.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited (via Express Mail Label No EL568028323US) on 9 March, 2001.

The application as filed consisted, *inter alia*, of "pages 1 to 138" consecutively numbered pages written description (specification, claims and abstract).

The application coversheet also authorized the basic filing fee, which was charged.

The Office mailed, *inter alia*, on 21 March, 2002, a "Notice of Omitted Item(s) in a Nonprovisional Application" in which Petitioner was informed that page 21 of the specification (description and claims) appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 1 April, 2002, a response with the instant petition, a copy of the Office-stamped filing receipt card, a copy a document purporting to be page 21 of the specification (description and claims), authorization to charge Deposit Account 23-3050 in the amount of $130.00 in payment of the petition fee.

BEST AVAILABLE COPY

The copy of the date stamped (9 March, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, pages 1-138 of specification, including claims and abstract.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that pages 1-138 of specification (description and claims), including page 21, were filed on 3 April, 2001, and that the page 21 was subsequently misplaced in the Office.

Accordingly, the petition is **granted**.[1]

The Notice mailed on 21 March, 2002, hereby is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 March, 2001, using pages 1-20 and 22-138 of the specification (claims and abstract) filed on 9 March, 2001, and the page 21 supplied on 1 April, 2002, with an indication on the PALM bib data sheet that pages 1 - 138 of the specification (description, claims and abstract) were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.

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

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

[1] Pursuant to Petitioner's authorization, the petition fee ($130.00) is being refunded to Deposit Account 23-3050.

BEST AVAILABLE COPY

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

David A. Jakopin
Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, Virginia 22102

MAILED

NOV 2 7 2001

Technology Center 2100

In re Application of: Stephen Lupo et al.)
Application No. 09/802,697)
Filed: March 9, 2001) **DECISION ON REQUEST FOR**
For: INTERACTIVE MEDIA RESPONSE) **WITHDRAWAL AS ATTORNEY**
PROCESSING SYSTEM)

This is a decision on the Request To Withdraw from Representation filed June 25, 2001.

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

As a result of a Revocation filed by assignee on 10 September 2001, the attorneys requesting withdrawal are no longer of record. Accordingly, the request is **DISMISSED AS MOOT**. A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

All future communications from the 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 Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Doyle B. Johnson
Crosby Heafey Roach & May
Four Embarcadero Center, Suite 1900
P.O. Box 7936
San Francisco , California 94120-7936

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

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

JOSEPH LUCCI, ESQ.
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA PA 19103

In re Patent No. 6,930,129 GUPTA ET AL
Issue Date: August 16, 2005
Appl No.: 09/802,709
Filed: March 8, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed February 28, 2007, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

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

DATE: July 24, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,930,129 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

JUL 25 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,930,129
Patented: August 16, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Suneel K. Gupta
Diane R. Guinta
Carol A. Christopheer
Samuel R. Saks
Lawrence G. Hamel

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

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

JOSEPH LUCCI, ESQ.
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA PA 19103

In re Patent No. 6,930,129 GUPTA ET AL
Issue Date: August 16, 2005
Appl No.: 09/802,709
Filed: March 8, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed February 28, 2007, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

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

DATE: July 24, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,930,129 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,930,129
Patented: August 16, 2005

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Suneel K. Gupta
Diane R. Guinta
Carol A. Christopheer
Samuel R. Saks
Lawrence G. Hamel

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

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

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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 JC#37 JUL 23 2001 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/802,718
Filing Date	March 8, 2001
First Named Inventor	Burmer, Glenna C., *et al.*
Group Art Unit	1645
Examiner Name	Unassigned
Total Number of Pages in This Submission: 1	Attorney Docket Number: 017473-003610US

ENCLOSURES *(check all that apply)*

- ☐ 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
- ☐ 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
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Declaration; Power of Attorney; Statement under 37 CFR 3.73(b); copy of Notice to File Missing Parts; Amended ADS; and Return Receipt Postcard.

Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430..

Please charge the Missing Parts Fee of $65.00 to Account No. 20-1430

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Annette S. Parent Reg. No. 42,058
Signature	Annette S Parent
Date	July 20, 2001

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: July 20, 2001

Typed or printed name	Karen Iovino		
Signature	Karen Iovino	Date	July 20, 2001

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

SF 1249216 v1

OIPE 3C167
JUL 23 2001
PATENT & TRADEMARK OFFICE

#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
09/802,718	03/08/2001	Glenna C. Burmer	17473-003610

CONFIRMATION NO. 7885

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

FORMALITIES LETTER

OC000000006098885

Date Mailed: 05/21/2001

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

07/26/2001 JADD01 00000002 201430 09802718
01 FC:1805 55.00 CH

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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COPY MAILED

JAN 0 5 2007

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Stetzler et al.	:	
Application No. 09/802,734	:	ON PETITION
Filed: March 12, 2001	:	
Attorney Docket No. TI-30668	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 13, 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) 272-3206.

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Stetzler et al.	:	
Application No. 09/802,734	:	DECISION ON PETITION
Filed: March 9, 2001	:	
Attorney Docket No. TI-30668	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Issue Fee Transmittal with payment of the issue and publication fees, (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 the Office of Data Management for processing into a patent.

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

MARK G. BOCCHETTI
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Paul Gloyer et al :
Application No. 09/802,760 : ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. 01333 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit drawings on or before December 1, 2006 in reply to the Notice of Allowability, mailed September 1, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 2, 2006. A Notice of Abandonment was mailed on December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement drawings, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of Allowability of September 1, 2006 is accepted as being unintentionally delayed.

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 action in accordance with this decision.

Frances Hicks
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,808	03/08/2001	Andrew D. Firlik	337348020US1	8272

25096 7590 10/18/2007

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER	
BRADFORD, RODERICK D	
ART UNIT	**PAPER NUMBER**
3762	

MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

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

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

UNITED STATES 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 of:	:	DECISION ON
Firlik et al.	:	PETITION TO CORRECT
U.S. Patent No.: 7,010,351	:	INVENTORSHIP
Dated: March 7, 2006	:	
For: Methods and Apparatus for Effectuating a Lasting Change in a Neural Function of a Patient	:	

This is in response to applicants' petition to correct inventorship filed on May 25, 2006 in connection with the above-identified patent.

As required in 37 CFR 1.324, the petition should be accompanied by:

(1) A statement from each person who is being added as an inventor and from each person who is being deleted 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).

As Applicant has satisfied each of the provisions set forth in 37 CFR 1.324, the petition is **GRANTED**.

Angela D. Sykes
Supervisory Patent Examiner
Art Unit 3762

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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

DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

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FEB 2 0 2002

OFFICE OF PETITIONS

In re Application of
Lull, et al.
Application No. 09/802,835
Filed: March 8, 2001
Attorney Docket No. 8027

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed January 18, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts in a Nonprovisional Application" (the "Notice") mailed April 13, 2001. The Notice set forth a two month period for reply beginning from its mailing date. Extensions of time for reply were available pursuant to 37 CFR § 1.136(a). Petitioner filed a response on October 12, 2001, was not fully responsive to the Notice and the Office mailed petitioner a Notice of Incomplete Reply on November 16, 2001 indicating such. The Notice of Incomplete Reply did not extend the period for reply beyond what was provided in the Notice to File Missing Parts of a Nonprovisional Application. No further responses were received within the allowable period. Accordingly, this application became abandoned on June 13, 2001. The instant petition was filed before a Notice of Abandonment could be sent.

The substitute drawings filed January 18, 2002, are noted and made of record.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

COPY MAILED

FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Andrew P. Lull et al :
Application No. 09/802,835 : ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. 1963/US

This is a decision on the petition, filed January 31, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[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

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JUN 2 1 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of :
PHAN-ANH et al. :
Application No. 09/802,861 : ON APPLICATION FOR
Filed: March 12, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0137 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed February 22, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1643 days, not 449 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

COPY MAILED

MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Francia :
Application No. 09/802,932 : DECISION GRANTING
Filed: March 12, 2001 : PETITION
Attorney Docket No. Q63527 :

This is a decision in response to the "Request for Corrected Official Filing Receipt" filed on October 15, 2001. The request will be treated in part as a petition under 37 CFR 1.53 requesting that the Office accord the above-identified application a filing date of March 12, 2001.

The petition is **granted**.

On March 12, 2001, the application was filed.

The application was written in Italian.

On April 26, 2001, the Office of Initial Patent Examination mailed a Notice to File Missing Parts stating in part that applicant must file an English translation of the application.

On June 13, 2001, petitioner filed an English translation of the application.

In response to the filing of the translation, the Office changed the filing date from March 12, 2001, to June 13, 2001.

The instant petition argues the application is entitled to a filing date of March 12, 2001.

An applicant may obtain a filing date upon the filing of an application in a language other than English. Therefore, the application was entitled to a filing date of March 12, 2001, and the filing date should not have been changed to June 13, 2001.

No petition fee is required and none has been charged.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 12, 2001, and for review of the portion of the "Request for Corrected Official Filing Receipt" which states the amount of the "Fil Fee Rec'd" on the Receipt is incorrect.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 6

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

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of :
Dimitris K. Agrafiotis, et. al. :
Application No. 09/802, 956 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 1503.0200006/PEG/TAD :

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 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 Corrected Application Papers mailed April 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 after midnight June 12, 2001.

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 $1960.00 extension of time submitted with the petition on November 15, 2001 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 the Office of Initial Patent Examination Unit for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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MAILED

MAR 1 2 2003

Technology Center 2100

Paper No. 10

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

In re Application of: Dimitris Agrafiotis et al.)
Application No. 09/802,956)
Filed: March 12, 2001)
For: SYSTEM , METHOD, AND COMPUTER PROGRAM PRODUCT FOR THE VISUALIZATION AND INTERACTIVE PROCESSING AND ANALYSIS OF CHEMICAL DATA) **DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed January 30, 2003 requesting acceptance of color drawings. The petition requests that all the drawings, which are in color, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain specific language (set out in the rule) in the first paragraph of the Brief Description of the Drawings.

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

The application file is being forwarded to Central files to await examination based upon its filing date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Vicki G. Norton
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

MAILED

DEC 01 2006

Technology Center 2100

In re Application of:
Dimitris Agrafiotis et al.
Application No. 09/802,956
Filed: March 12, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR THE VISUALIZATIOIN AND INTERACTIVE PROCESSING AND ANALYSIS OF CHEMICAL DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 18, 2006.

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

The request filed May 18, 2006 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

7/1 Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: JOHNSON & JOHNSON PATENT LAW DEPT.
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

APR 18 2005

Mailed:_____

rvk

Paper Number: ____

In re application of :
Lawrence G. Costello : DECISION ON
Serial No. 09/803,067 : PETITION
Filed: March 12, 2001 :
For: PROCESS FOR TREATING JUICES WITH ULTRAVIOLET ACTIVATED OXYGEN:

This is a response to the PETITION TO REVISE APPLICATION 09/803,067 PER RULE 37 CFR 1.181 (NOTICE OF ABANDONMENT), filed September 13, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 06, 2004, for the fact that the Reply filed January 08, 2003 does not constitute a proper reply to the Office letter dated December 10, 2002 be withdrawn. The petitioner asserts that there has been a communication problem between applicant and the Patent Office, and the applicant filed a response to the Office letter of December 10, 2002 on January 08, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the instant application file shows that the examiner issued an Office letter dated December 10, 2002 indicating that the reply filed September 26, 2002 does not address the rejection of record and the amendment filed September 26, 2002 does not comply with the requirements of 37 CFR 1.121(c), and setting a time period of one-month or thirty days from December 10, 2002 for reply. On January 08, 2003, the applicant filed a Request for a 30 days extension of time for the reply without authorizing the USPTO to charge the extension fee as required by 37 CFR 1.136(a). On January 21, 2003, the applicant filed a reply including a substitute specification and abstract, corrected drawings and amended claims. However, the Reply filed January 21, 2003 does not address the rejection of

record. Since the applicant did not pay the 30 days extension fee starting from January 11, 2003 according to 37 CFR 1.136(a), the Reply filed January 21, 2003 is untimely. Furthermore, the Reply filed January 21, 2003 still does not address the rejection of record according to 37 CFR 1.111.

However, it is noted that the replies filed on January 08, 2003 and January 21, 2003 appear to be ***bona fide***, therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this Decision, whichever is longer, within which to submit a proper reply including a response to the rejection of records in compliance with 37 CFR 1.111, an amendment in compliance with 37 CFR 1.121 and CFR 1.185(a) and submit the one month extension fee according to 37 CFR 1.136(a). The applicant is advised to consult a registered attorney or a registered agent for further assistance regarding to the requirement of U.S. patent law and procedures.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

LAWRENCE GENE COSTELLO
720 N. ADELE #4
ORANGE, CA 92867

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Serge J. Hodgson
Gunnison, McKay & Hodgson, L.L.P.
Garden West Office Plaza, Suite 220
1900 Garden Road
Monterey, CA 93940

NOV 27 2002

In re Application of :
Thomas P. Glenn et al. : DECISION ON PETITION
Application No.: 09/803,083 : TO MAKE SPECIAL
Filing Date: March 8, 2001 :
Attorney Docket No.: G0049M :

This is a decision on the petition filed with the application on March 8, 2001 requesting that the above identified application be granted special status under the provisions of 37 C.F.R. § 1.102(c) and MPEP § 708.02 IV.

The petition is DISMISSED.

The provisions of MPEP § 708.02 IV state that an "application may be made special upon filing a petition including any evidence that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement." The present petition was accompanied by a copy of the driver's license of applicant Thomas P. Glenn indicating that he is more than 65 years of age. Although this would normally constitute sufficient evidence in order to grant the petition, the status inquiry filed by applicant on October 8, 2002 sadly changed the fact situation. The status inquiry regretfully mentioned the death of Thomas P. Glenn on December 16, 2001. The death of Thomas P. Glenn unfortunately eliminated the basis on which to grant a petition to make special due to age.

This application is being forwarded to the examiner and will remain in the status of a new application awaiting action in its regular turn.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-10-06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6943429

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.

EVA JAMES

Should Claims be entered as requested?

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:

OK

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2826
Art Unit

#9
10-09-02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 9 2002

Paper No. 9

Warren S. Heit
White & Case LLP
Attn: Patent Department
1155 Avenue of the Americas
New York, NY 10036

In re Application of: Chong-Seng Cheng)
Application No. 09/803,173)
Filed: March 9, 2001)
For: PORTABLE DATA STORAGE)
DEVICE CAPABLE OF BEING)
DIRECTLY CONNECTED VIA USB)
PLUG TO A COMPUTER)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed April 16, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(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(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.

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

The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

COPY MAILED
JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Klein : DECISION ON PETITION
Application No. 09/803,203 :
Filed: March 9, 2001 :
Docket No.: 04873-080001 / 1017 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 12, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed January 11, 2006. The Notice set a three month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/28/06

Paper No.: ____

TO SPE OF : ART UNIT 2661

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/803247 Patent No.: 7006466 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**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2614
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS
TWO INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Donald H. Willis, et al. :
Application No. 09/803,248 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. PU010033 :

This is a decision on the petition under 37 CFR 1.137(f), filed July 16, 2003, which is being treated as a petition to revive the above-identified application under the provisions of 37 CFR 1.137(b).

It is noted that a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) was not filed in this case. Consequently, abandonment by operation of 37 U.S.C. 122(b)(2)(B)(iii) is unlikely. *See* 37 CFR 1.137(f). A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 4, 2002. A Notice of Abandonment was mailed June 18, 2003.

In view of the petition and the amendment filed July 16, 2003, the requirements under 37 CFR 1.137(b) have been satisfied. Receipt is also acknowledged of the accompanying Supplemental Information Disclosure Statement.

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 AU 2675 for consideration of the response filed July 16, 2003.

Sherry D. Brinkley
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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Alexandria, Virginia 22313-1450
www.uspto.gov

Novak Druce + Quigg LLP
CityPlace Tower, 525 Okeechobee Blvd.
Fifteenth-Floor
WEST PALM BEACH, FL 33401

Mail Date: 04/21/2010

Applicant	: Victor S. Moore	: DECISION ON REQUEST FOR
Patent Number	: 7584269	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/803,256	: OF WYETH
Filed	: 03/09/2001	:
		:

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.

Request Reconsideration Due: [redacted] 7, 2003

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

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MAR 1 1 2003

MOTOROLA LAW DEPARTMENT
PLANTATION, FLORIDA

Paper No. 7

Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

COPY MAILED

MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Chung-Chieh Lee, et al. :
Application No. 09/803,259 ✓ :
Filed: March 9, 2001 :
Attorney Docket No. CM03403J :

ON PETITION

DOCKETED

This is a decision on the petition filed October 11, 2002, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-Provisional Application – Filing Date Granted mailed May 30, 2001, which set a period for reply of two (2) months from the mail date of the Notice. The Notice required applicants to submit a declaration including the signatures of inventors Lee and Hester; and the surcharge for late filing of a declaration. In addition, the Notice stated that a filing date had been granted; however, figures 16, 17 and 18 described in the specification appeared to have been omitted. No reply having been received and no extension of time obtained, the above-identified application became abandoned on July 31, 2001. A Notice of Abandonment was mailed on June 27, 2002.

OPINION

On instant petition, applicant submitted a declaration, the late surcharge, and previously omitted figures 16, 17 and 18.

Consideration of Reply Requirement on Petition under § 1.137(B)

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

(1) the reply required to the outstanding Office action or notice, unless previously filed;

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

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OFFICE OF PETITIONS

(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 (an fee as set forth in §1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1). Petitioner submitted a declaration "executed" by all of the inventors. Based on a careful review of this declaration, it appears that as to the third, fourth, fifth and sixth-named inventors, this is the same declaration submitted on original filing. However, this declaration is lacking i) the original signature blocks for the first and second-named inventors; and significantly, as to inventors 3-6, ii) the declaration that all statement herein are sworn to pursuant to Section 1001 of Title 18 of the United States Code. Rather, appended to this declaration are two signature blocks set forth on two separate pages, one executed by first-named inventor Lee and one executed by second-named inventor Hester, with significant portions of each page left blank. In addition, the pages of the declaration are not properly numbered. Although the appended pages follow the third and fourth pages of the declaration, they are numbered pages A3" and A4" respectively. Actual pages 1-4 contain no page numbering. Given the format of this declaration, it is unclear whether inventors Lee and Hester were presented with a declaration in compliance with §§ 1.63 and 1.64, naming all of the actual inventors. Accordingly, it is concluded that the declaration filed October 11, 2002, is not acceptable. Thus, the petition to revive must be dismissed.

RE: Submission of Omitted Figure(s)

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Applicant has not disputed that the figures were omitted. Rather, on October 11, 2002, applicant filed the instant response including one (1) sheet of drawings containing Figures 16, 17 and 18 as described in the specification; a copy of the Notice mailed May 30, 2001and four (4) pages of a declaration containing the signatures of inventors, Le and Hester. However, applicant did not pay the petition fee under 37 CFR 1.182 and did not supply a supplemental declaration referring to the figures.

If applicant wishes to have the omitted figures submitted on petition entered into the application pursuant to the aforementioned practice, it is required that applicant submitted petition fee, along with

a supplemental oath or declaration in compliance with 37 CFR 1.63 or 1.64 referring to the amendment of the application to include Figures 16, 17 and 18. This supplemental declaration must be newly executed by all of the actual inventors.

However, if applicant seeks to amend the application to include the drawing figures, no petition under 37 CFR 1.182 is necessary for the purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

CONCLUSION

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

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

OR

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

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

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

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

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

COPY MAILED

JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Chung-Chieh Lee, et al. :
Application No. 09/803,259 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. CM03403J :

This is a request for reconsideration under 37 CFR 1.137(b), filed May 6, 2003, to revive the above-identified application.

The petition is **DISMISSED.**

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

The petition, on reconsideration, does not satisfy requirement (1). While petitioners have submitted a declaration containing six signatures, the declaration is not acceptable under 37 CFR 1.63. As executed, it is unclear whether each inventor is attesting to being a joint inventor with the other inventors. The signature blocks for each of the inventors are set forth on separate sheets with no specific reference to this application on the sheet.

Given the format of the declaration, it cannot be determined if each inventor was presented with a declaration naming all of the actual inventors in compliance with 37 CFR 1.63 and 1.64. Accordingly, a new declaration(s) is required. For applicants convenience acceptable declaration forms PTO/SB/01, PTO/SB/02A and PTO/SB/02B can be obtained at www.uspto.gov.

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: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

COPY MAILED

AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Chung-Chieh Lee, et al. :
Application No. 09/803,259 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. GM03403J :

This is a decision on the renewed petition under 37 CFR 1.137(b), May 6, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit a corrected oath/declaration and figures 16, 17 & 18 in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed May 30, 2001, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on July 31, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

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

UNITED STATES 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.

John G. Tolomei, Patent Department
UOP LLC
25 East Algonquin Road
P. O. Box 5017
Des Plaines, IL 60017-5017

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Roboert J. Sanger, et al. :
Application No. 09/803,283 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. 105196 :

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

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being forwarded to the Publishing Division to be processed into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 07-03

Paper No. 7

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL FL 33322

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Shi et al. :
Application No. 09/803,285 : ON PETITION
Filed: 9 March, 2001 :
Attorney Docket No. CM03333J :

This is a decision on the petition under 37 CFR 1.137(b) and response to the Notice of Omitted Items, both filed on 18 April, 2003 which is treated as a petition under 37 CFR 1.137(b) and under 37 CFR 1.53.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.53 is **DISMISSED**.

A review of the Official file reveals that on 9 March, 2001, the application was filed. On 23 April, 2001, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 9 March, 2001, but that Figures 15, 17, and 18 described in the specification appeared to have been omitted. A two (2) month period was set for reply.

On 18 April, 2003, petitioners filed the present petition, accompanied by a preliminary amendment including four (4) sheets of drawings containing Figures 15, 16, 17, and 18.

Petitioners should note that the Notice mailed on 23 April, 2001, did not require a response to avoid abandonment of the application. Therefore, the application is not abandoned and the petition under 37 CFR 1.137(b) is dismissed as moot.

The mailing of a "Notice of Omitted Items" permits the applicant

to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted item(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing item(s) were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, however, petitioners neither assert that the missing drawings were deposited on 9 March, 2001, nor request the 18 April, 2003 (the date the drawings were supplied), filing date. Rather, petitioners have simply filed the drawing sheets with a preliminary amendment. Preliminary amendments may be entered as long as they contain no new matter. The preliminary amendment will be reviewed by the examiner for new matter.[1]

Petitioners are reminded that the two (2) month period for replying to a Notice of Omitted Items is not extendable under 37 CFR 1.136(a) or (b). In the absence of a timely filed petition, the application will be processed using only the papers present in the USPTO on the date of deposit.

The application will be processed and examined using only the application papers present on 9 March, 2001. The drawing sheets filed on 18 April, 2003, will not be processed as part of the original application papers, but will be treated as a part of the preliminary amendment.

As the application is not abandoned, the petition under 37 CFR 1.137(b) is unnecessary, and the petition fee will be credited to counsel's deposit account, No. 50-2117. The petition under 37 CFR 1.53, however, was not necessitated by any error on the part of the Office. Thus, the $130.00 petition fee will not be refunded.

---

[1] 37 CFR 1.121(b).

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 March, 2001, using the application papers filed on that date.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/803320 Patent No.: 6791098

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**.

H. Rly

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: _____

Rick Mace

SPE

2873

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 21, 2005

TO SPE OF : ART UNIT 2161 (*Coby Frantz*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,879,988

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

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

Thank You For Your Assistance ~~10/325,791~~ 9/803,355

sp Stacy Powell
Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

_____

_____

_____

_____

_____

SPE 2165 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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MAY 0 2 2002

OFFICE OF PETITIONS

In re Application of :
David John Richardson, et al. :
Application No. 09/803,367 : ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. DYOUP0209US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 NonProvisional Application mailed May 31, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

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

March 2, 2007

Patent No. : 6,872,362 B2
Ser. No. : 09/803405
Inventor(s) : Schmidt, et al.
Issued : March 29, 2005
Title : **VIAL HANDLING SYSTEM WITH IMPROVED MIXING MECHANISM**
Docket No. : 030403-1

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.

The word "positions", purported to be in column 1, line 32, cannot be found in the printed patent.

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

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

CBN/eme

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 20, 2005

TO SPE OF : ART UNIT 2677

SUBJECT : Request for Certificate of Correction on Patent No.: 6,924,792

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:

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2629

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. 11

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS, TWO INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Donald Henry Willis et al :
Application No. 09/803,485 : DECISION ON PETITION
Filed: March 9, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PU010032 :

This is a decision on the petition under 37 CFR 1.137(f), filed July 22, 2003, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (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). This is also a decision on petition under 37 CFR 1.137(b), filed September 26, 2003, to revive the above-identified application for failure to reply to the non-final Office action of November 26, 2002.

The petition under 37 CFR 1.137(f) is dismissed as **MOOT**.

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

The record discloses that, on March 9, 2001, the date of filing of the instant application, there is no indication that applicants had submitted a nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

In the instant application, since the record fails to disclose that a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was present on filing the application, the filing of a petition to revive thereunder is unnecessary and is dismissed as involving a moot issue.

However, the above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 26, 2002, which set a

shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 27, 2003.

This application is being forwarded to Technology Center AU 2673.

Any inquiries concerning this decision may 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
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JAN 30 2006

OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of :
Hisashi Nagata, et al. :
Application No. 09/803,509 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No. 55688(904) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 27, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2673 for further processing of the request for continued examination under 37 CFR 1.114 filed January 27, 2006.

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 : January 27, 2006

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JAN 30 2006

OFFICE OF PETITIONS

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hisashi Nagata, et al.
Application No. : 09/803,509
Filed : March 9, 2001

The above-identified application has been assigned Patent No. 6,995,740 and an issue date of February 7, 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 February 7, 2006:

> "All reference to Patent No. 6,995,740 to HISASHI NAGATA, ET AL. of JAPAN for DATA TRANSFER METHOD, IMAGE DISPLAY DEVICE AND SIGNAL LINE DRIVING CIRCUIT, ACTIVE-MATRIX SUBSTRATE appearing in the Official Gazette of February 7, 2006, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of :
Hisashi Nagata, et al. :
Application No. 09/803,509 : ON PETITION
Filed: March 9, 2001 :
Attorney Docket No.: 55688(904) :

This is a decision on the petition, filed June 29, 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 30, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 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
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of :
Sridhar Obilisetty :
Application No. 09/803,514 : DECISION ON PETITION
Filed: March 8, 2001 :
Attorney Docket No. 026507-000300US :

This is a decision on the petition under 37 CFR §1.137(b), filed August 16, 2006.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on February 23 2005. The 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 May 24, 2005. A Notice of Abandonment was mailed on September 20, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be 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

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

Paper No. 8

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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AUG 15 2003

OFFICE OF PETITIONS

In re Application of Polychronidis et al. Application No. 09/803,526 Filed: March 8, 2001 Attorney Docket No. 3399P045/1154	DECISION DISMISSING AS MOOT PETITION UNDER 37 CFR 1.137(f)

This is a decision on the "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))," filed May 14, 2003, to revive the above-identified nonprovisional application.

The petition is **DISMISSED AS MOOT**.

Petitioner states that the instant nonprovisional application became the subject of an application filed in an eighteen-month country on March 5, 2002. A review of the file record discloses that a Notice to Rescind was received in the U.S. Patent and Trademark Office on March 4, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See *Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv)*, 1272 OG 22 (July 1, 2003).

In the instant application, a notice to rescind was filed prior to the date of filing of the counterpart application in an eighteen month publication country. Therefore, since receipt in the U.S. Patent and Trademark Office of the request to rescind prior to the date of the filing of the corresponding application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1,300 is being credited to Deposit Account No. 02-2666, as authorized.

This application is being forwarded to Technology Center 2153 for examination in due course.

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

DILWORTH & PAXSON LLP
1500 MARKET STREET
SUITE 3500 E
PHILADELPHIA PA 19102

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of
Stanislaus Jr. Pietrucha et al
Application No. 09/803,545
Filed: March 9, 2001
Attorney Docket No. 05-1015

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed October 9, 2008, is accepted as having been unintentionally delayed.

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DILWORTH PAXSON LLP
3200 MELLON BANK CENTER
1735 MARKET STREET
PHILADELPHIA, PA 19103-7595

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

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MAILED
FROM DIRECTORS OFFICE

AUG 23 2005

TECHNOLOGY CENTER 3600

Lawrence Robert Brandt
P.O. Box 1937
Saxonville, MA 01701

In re Application of :
Raimond Lasar :
Application No. 09/803,563 :
Filed: March 9, 2001 :
For: BODY PIERCING DECORATION 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 14, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt dated November 3, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/rwg: 1/05/05

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

DORSEY & WHITNEY
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Patrick Warner et al :
Application No. 09/803,630 : DECISION ON PETITION
Filed: March 9, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5451.23 :

This is a decision on the petition, filed June 17, 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 Office (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 March 7, 2002. 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 4, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 3764 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Patrick Warner et al. :
Application No. 09/803,630 : DECISION ON PETITION
Filed: March 9, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5451.23 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 AU 3764 for appropriate action on the amendment submitted April 3, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/803,630	03/09/2001	3764	840	5451.23	23	9	1

CONFIRMATION NO. 7879

20686
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

CORRECTED FILING RECEIPT

OC000000020348116

OC000000020348116

Date Mailed: 09/07/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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)

Patrick Warner, Boulder, CO;
Michael H. Harding, Boulder, CO;
Mu-Chuan Wu, Tainan City, TAIWAN;
Andy Baker, Longmont, CO;

Power of Attorney: The patent practitioners associated with Customer Number **20686**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/379,560 08/23/1999 PAT 6,641,507
which is a CON of 08/919,695 08/28/1997 PAT 5,961,424
which claims benefit of 60/038,726 02/18/1997

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/803,630

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

FREE WHEEL CLUTCH MECHANISM FOR BICYCLE DRIVE TRAIN

Preliminary Class

482

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Alan Kamrath
RIDER BENNETT EGAN &
ARUNDEL, LLP
333 South Seventh Street, Suite 2000
Minneapolis, MN 55402

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of

Kumar, et al.

Application No. 09/803,645

Filed: March 9, 2001

Attorney Docket No. **05-NF92/2001**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on June 1, 2004, for failure to file a proper response to the final Office action mailed March 1, 2004. The final Office action set a shortened 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 June 1, 2004. A Notice of Abandonment was mailed on October 1, 2004.

The above-identified application had 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 of the reply until the filing of a grantable petition pursuant to 37 CFR 1.1379b) was unintentional. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg, at 53160 and 53178.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

The continuing application 11/265,883 is noted as a response to the final Office action.

The application is being directed to Technology Center 1700, GAU 1743 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

cc:

Hans Sun
33 South Sixth Street, Suite 4900
Minneapolis, Minnesota 55402

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Paper No. 30

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

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MAR 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Derk J. Hogenkamp, et al. :
Application No. 09/803,659 :
Filed: March 12, 2001 :
Attorney Docket No. 1861.1260001/JMC/THN :

This is a decision on the petition, filed March 26, 2004, which is being treated under 37 CFR(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 26, 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 AU 1624 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 31

Date : March 29, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Derk J. Hogenkamp, et al.
Application No. : 09/803,659
Filed : March 12, 2001

The above-identified application has been assigned Patent No. 6,720,326 and an issue date of April 13, 2004.

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 April 13, 2004:

> "All reference to Patent No. 6,720,326 to DERK J. HOGENKAMP, ET AL. of CALIFORNIA for ARYL SUBSTITUTED PYRIMIDINES appearing in the Official Gazette of April 13, 2004, should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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VENABLE LLP
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WASHINGTON, DC 20045-9998

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OFFICE OF PETITIONS

In re Application of :
David S. Miller :
Application No. 09/803,667 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 31921-169499 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 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 February 19, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on June 1, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3623.

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

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P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,767,668 :
Issue Date: July 27, 2004 :
Application No. 09/803,685 :
Filed: March 9, 2001 :
Attorney Docket No. 09792909-4804 :

This is a decision on the petition under 37 CFR 1.378(c), filed on December 8, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

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

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

Petitioner asserts: (1) "On December 1, 2005, Sony Corporation, informed its U.S. Patent counsel, David R. Metzger and SONNENCHEIN NATH & ROSENTHAL LLP, to not maintain the patent."; (2) A declaration by Chisato Numaoka filed with the instant petition states: "However, during July to August, 2008 I was tasked with the responsibility of reviewing a large number of Sony Corporations patents to again determine which patents should be maintained. I had full authority to decide on behalf of

Sony Corporation which patents should be maintained. My decision was to be final, subject only to ministerial approval for things like funding. I did not know when any fees for maintaining the patents were due."; (3) "By July 27, 2008, I determined that United States Patent No. 6,767,668 should be maintained. My decision to maintain the '668 patent constituted an intention on behalf of Sony Corporation to maintain the '668 patent. I acted with full and proper authority within the Intellectual Property Division to identify the '668 patent as a patent to be maintained."; (4)"As a result, Sony Corporation by virtue of my full and complete authority to act on behalf of Sony Corporation, made a deliberate decision to maintain U.S. Patent No. 6,767,668 before July 27, 2008."; and (5) "Unfortunately, due to the large number of patents being reviewed, the entire task could not be completed until end of August, 2008. Further, due a need to obtain approval for the funding of the payment of the maintenance fees, the decision to maintain the '668 was not communicated to Sony's United States patent counsel, David R. Metzger, Sonnenschein Nath & Rosenthal LLP, until November, 4, 2008."

Petitioner has failed to meet his burden of establishing that the delay in payment of the maintenance fee was unintentional within the meaning of 35 USC 41(c)(1) and 37 CFR 1.378(a), (c).

The showing of record is that the delay resulting in the expiration of this patent is due to an intentional decision by a responsible party, Sony Corporation, to not continue this patent in force, but rather, to permit the expiration of the patent by deliberately withholding the maintenance fee. This course of action, deliberately chosen, cannot reasonably be considered to have been unintentional within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(c).

A delay caused by the deliberate decision not to take appropriate action within a statutorily prescribed period does not constitute an unintentional delay within the meaning of 35 U.S.C. § 41. In re Application of G, 11 USPQ2d 1378,1380 (Comm'r Pat. 1989). Such intentional action or inaction precludes a finding of unintentional delay. In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

The showing of record is that, when the maintenance fee was due there was no compelling reason to continue this patent in force. Petitioner asserts that a decision was made, on July 27, 2008, prior to the ministerial act of obtaining funding to maintain the patent. Despite petitioner's contention to the contrary it is not the decision of July 27, 2008 that must be relied upon to determine whether or not the patent expired unintentionally, rather, it is the decision on December 1, 2005 to not maintain the patent which caused expiration of the patent. This intentional act cannot be overcome by the decision by the party responsible for paying the fee due to now pay the fee and keep the patent in force which occurred on or about November 4, 2008, which is a decision after the expiration of the patent, to pay the maintenance fee due.

The discovery of additional information after making a deliberate decision to withhold a timely action is not the "mistake in fact" that might form the basis for acceptance of a maintenance fee pursuant to 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(c), under the

reasoning of Maldague. The discovery of additional, other information is simply a change in circumstances that occurred subsequent to the expiration of the patent. That such other additional information was discovered subsequent to the expiration of this patent does not cause the delay resulting from the previous deliberate decision to become "unintentional" Id.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

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

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

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

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

Telephone inquiries should be directed to Joan Olszewski at (571)-272-7751.

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. 7

CHIRON CORPORATION INTELLECTUAL PROPERTY -R440
PO BOX 8097
EMERYVILLE CA 94662-8097

COPY MAILED

MAY 14 2002

OFFICE OF PETITIONS

In re Application of
Williams, et al.
Application No. 09/803,719
Filed: March 9, 2001
Attorney Docket No. 2300-1624

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 11, 2002.

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

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 9, 2001, without the necessary filing fees or an executed oath or declaration. Accordingly, on April 26, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a five month extension of time and included a Certificate of Mailing dated November 26, 2001. In addition to paying the filing fees, applicant included a declaration signed by inventors Lewis T. Williams, Jaime Escobedo, Pablo Dominquez Garcia, Julie Sudduth-Klinger, Christoph Reinhard, Filippo Randazzo, Giulia C. Kennedy, David Pot, Altaf Kassam, George Lamson, Radoje Drmanac, Mark Dickson, Ivan Labat, Lee William Jones, and Birgit Stache-Crain, but lacking a signature from inventor Michael A. Innis. Accompanying the petition were, *inter alia*: (1) a statement of facts by Nancy L. Swanson, describing how the application papers were transmitted to Innis; (2) a copy of a cover letter transmitting the application papers via Federal Express; and (3) a copy of an e-mail from Innis, in which he stated he would not sign the

declaration until he was paid a consulting fee of $2,500 per day.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (2) above.

As to requirement (2), the declaration is not acceptable because it does not comply with 37 CFR 1.63(c)(1). The declaration submitted does not identify an acceptable mailing address for non-signing inventor Innis. Regarding the mailing address that must be supplied on the 37 CFR 1.63 oath or declaration, the Manual of Patent Examining Procedure states:

> Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address.[1]

Here, Rule 47 applicant has supplied a business address for Innis on the declaration. The address provided was: Chiron Corporation, P.O. Box 8097, Emeryville, California 94662-8097. However, as detailed in the papers submitted on petition, Innis is a former employee of Chiron Corporation. In fact, the e-mail refusal from Innis stated that he retired from Chiron two years ago. Therefore, it can not be concluded that Rule 47 applicant has supplied a declaration with an address for Innis at which he "customarily receives mail."

On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.

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

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

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

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

---

[1] MPEP 605.03.

By hand: Crystal Plaza Four, Suite 3C2
2201 S. Clark Place
Arlington, VA

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

Christina Tartera Donnell for

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

cc: Bozicevic, Field & Francis LLP
200 Middlefield Road
Suite 200
Menlo Park, California 94025

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

CHIRON CORPORATION INTELLECTUAL PROPERTY -R440
PO BOX 8097
EMERYVILLE CA 94662-8097

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SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Williams, et al.	:	
Application No. 09/803,719	:	DECISION NOTING JOINDER
Filed: March 9, 2001	:	OF INVENTOR AND PETITION
Attorney Docket No. 2300-1624	:	UNDER 37 CFR 1.47(a) MOOT

This is in response to the "Reply to Decision Refusing Status Under 37 CFR 1.47(a)", filed August 20, 2002.

The above-identified application was filed on March 9, 2001, without the necessary filing fees or an executed oath or declaration. Accordingly, on April 26, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the petition under 37 CFR 1.47(a) on January 11, 2002 and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a five month extension of time and included a Certificate of Mailing dated November 26, 2001. In addition to paying the filing fees, applicant included a declaration signed by inventors Lewis T. Williams, Jaime Escobedo, Pablo Dominquez Garcia, Julie Sudduth-Klinger, Christoph Reinhard, Filippo Randazzo, Giulia C. Kennedy, David Pot, Altaf Kassam, George Lamson, Radoje Drmanac, Mark Dickson, Ivan Labat, Lee William Jones, and Birgit Stache-Crain, but lacking a signature from inventor Michael A. Innis. Accompanying the petition were, *inter alia*: (1) a statement of facts by Nancy L. Swanson, describing how the application papers were transmitted to Innis; (2) a copy of a cover letter transmitting the application papers via Federal Express; and (3) a copy of an e-mail from Innis, in which he stated he would not sign the declaration until he was paid a consulting fee of $2,500 per day.

The petition was dismissed in a decision mailed on May 14, 2002. Petitioner did not submit a declaration in compliance with 37 CFR 1.63 because the mailing address for Innis listed on the declaration was not an address at which Innis customarily received mail.

On renewed petition, petitioner has submitted a declaration executed by Innis. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **joinder** of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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

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

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

cc: Bozicevic, Field & Francis LLP
200 Middlefield Road
Suite 200
Menlo Park, California 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,135,862 :
Issue Date: November 14, 2006 :
Application No. 09/803,819 : DECISION DISMISSING
Filed: March 13, 2001 : PETITION UNDER 37 CFR 1.10(c)
Attorney Docket No. 7420-081-999 :

This is a decision on the petition filed April 23, 2007, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on March 12, 2001, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of March 13, 2001.

The petition is **DISMISSED**.

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)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks item (1) above.

Petitioner requests the filing date of March 12, 2001on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label.

Petitioner has failed to establish that this petition was filed promptly. A review of the record shows that the request for an earlier filing date was not raised throughout the prosecution of the application. The issue of the filing date was not raised until after the patent issued. A justification for the delay in seeking the correction of the filing date has not been provided. Further, the Office has limited jurisdiction once an application has issued as a patent.

Accordingly, the request to correct the filing date is dismissed.

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

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

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

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

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

Charlema 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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,135,862 :
Issue Date: November 14, 2006 :
Application No. 09/803,819 : DECISION DENYING PETITION
Filed: March 13, 2001 :
Attorney Docket No. 7420-081-999 :

This is a decision on the petition filed February 27, 2008, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on March 12, 2001, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of March 13, 2001.

The petition is **DENIED**.[1]

BACKGROUND

Patentee filed a petition on April 23, 2007, alleging that patentee deposited the original application papers with the United States Postal Service (USPS) via Express Mail on March 12, 2001. Patentee maintains that the application was entitled to a filing date of March 12, 2001 rather than the presently accorded filing date of March 13, 2001.

In support of the petition, patentee has provided a copy of Express Mail Label No. EL501637971US the same Express Mail Label number found on the application transmittal sheet. The Express Mail Label shows a date-in of March 12, 2001. However, the Office issued a filing date of March 13, 2001. The application matured into patent on November 14, 2006. A petition seeking to change the filing date was filed on April 23, 2007. The petition was dismissed on January 3, 2008, because the petition was untimely.

STATUES AND REGULATION

37 CFR § 1.10 states:

(a)

(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee"

[1]This decision may be viewed as a final agency action within the meaning of 5 U.S.C. §704 for purposes of seeking judicial review. See MPEP 1002.02.

service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

OPINION

A review of the record confirms that the first time the issue of the filing date was raised was on April 23, 2007, well after the issuance of the patent. While the Office does not dispute that application papers were filed via Express Mail on March 12, 2001, the fact that the Office no longer has jurisdiction over the patent upon issuance except as provided in 35 U.S.C. 135, 35 U.S.C. 251 through 256, 35 U.S.C. 302 through 307 and 35 U.S.C. 311 through 316 precludes the Office from changing the filing date in an issued patent, where the issue was not raised prior to issuance of that patent. See MPEP 1305.

CONCLUSION

The prior decision dismissing petition under 37 CFR 1.10(c) to correct the filing date has been reconsidered. For the reasons set forth herein the filing date cannot be changed in the issued patent.

Telephone inquiries concerning this matter may be directed to the Petitions Attorney Charlema Grant at 571-272-3215.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#14

Mr. Roland Quiros
631 N Stephanie Street, #555
Henderson, NV 89014

MAILED

JUL 22 2003

Office of the Director
Group 3600

In re Application of
Hilary Laing De Leon
Application No. 09/803,889
Filed: March 13, 2001
For: SELF-CONTAINED FLIGHT DATA RECORDER WITH WIRELESS DATA RETRIEVAL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on June 9, 2003.

The petition is **DISMISSED,** pending submission of a renewed petition.

A review of the file record reveals that a final Office action was mailed to applicant at the address of record on November 4, 2002. Since a reply to the November 4, 2002 Office communication was not received before the expiration of the six month statutory time for reply, the application was held abandoned, and a Notice to that effect was mailed on May 21, 2003.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by her, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records or other method which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained.

Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, fails to find a copy of the Office communication in question. Finally, applicant must state that she was in fact at the correspondence address of record at the time the Office communication would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

KJD/tpl: 7/17/03

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

OIPE JC194 SEP 19 2003 PATENT & TRADEMARK OFFICE

Mr. Roland Quiros
631 N Stephanie Street, #555
Henderson, NV 89014

MAILED

JUL 22 2003
Office of the Director
Group 3600

In re Application of
Hilary Laing De Leon
Application No. 09/803,889
Filed: March 13, 2001
For: SELF-CONTAINED FLIGHT DATA RECORDER WITH WIRELESS DATA-RETRIEVAL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on June 9, 2003.

The petition is **DISMISSED**, pending submission of a renewed petition.

A review of the file record reveals that a final Office action was mailed to applicant at the address of record on November 4, 2002. Since a reply to the November 4, 2002 Office communication was not received before the expiration of the six month statutory time for reply, the application was held abandoned, and a Notice to that effect was mailed on May 21, 2003.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by her, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records or other method which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained.

Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, fails to find a copy of the Office communication in question. Finally, applicant must state that she was in fact at the correspondence address of record at the time the Office communication would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Any request for reconsideration of this decision must be submitted within TWO (2) **MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586
KJD/tpl: 7/17/03

RECEIVED
SEP 25 2003
GROUP 3600

#16

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

Mr. Roland Quiros
631 N Stephanie Street, #555
Henderson, NV 89014

MAILED

DEC 31 2003

Office of the Director
Group 3600

In re Application of :
Hilary Laing De Leon :
Application No. 09/803,889 :
Filed: March 13, 2001 :
For: SELF-CONTAINED FLIGHT DATA RECORDER WITH WIRELESS DATA RETRIEVAL :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on September 19, 2003.

The petition is **GRANTED.**

In response to the letter mailed by the Office on July 22, 2003 dismissing applicant's earlier petition to withdraw the holding of abandonment applicant has responded in a renewed petition with the requirements to withdraw the holding of abandonment.

Applicant has provided a statement that he was at the correspondence address of record at the time the final Office Action, mailed November 4, 2002, would have been received. Applicant's secretary, Ms. Cynthia M. Saludo, swears in an affidavit that she was at applicant's correspondence address, that she is in charge of "all Office communications and other mail matters" for Micrologic Systems Inc. and provides copies of records on which the receipt date of the Office communication would have been entered had it been received in a log journal covering the period after the date of the Office communication. She also states that from October 2002 up to August 2003 the company received no communication from the Patent and Trademark Office concerning applicants patent application. This is considered to be evidence to show non-receipt of the communication in question.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status, and to redate and remail the Office Action of November 4, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 12/22/03

cc:

Hilary L. de Leon
2402 One San Miguel Avenue
San Miguel Ave. cor. Shaw Blvd.
Ortigas Center, Pasig City 1605
Philippines

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Shinobu Kuriya et al :
Application No. 09/803,898 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 204517US6

This is a decision on the petition filed, January 24, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 21 2005

Charles Calkins
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

In re Application of :
Holden et al. : DECISION ON PETITION
Application No. 09/803,987 : TO WITHDRAW THE
Filed: March 13, 2001 : HOLDING OF ABANDONMENT
For: SYSTEM AND METHOD FOR PROVIDING SERVICES USING A WEB HUB

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 21, 2005. There is no fee for this petition.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on December 16, 2004, which set a three-month response period. A Notice of Abandonment was mailed on July 19, 2005.

Applicants' petition indicates that the Office action was never received. In support thereof applicant has provided a copy of the "docket record" where the non-received Office action would have been entered. The support provided appears to be a copy of a file jacket and an incoming mail log. This is not sufficient evidence since the docket record should show all actions due by the entire firm at and around the due date for response. Further, it is noted that one of the applications listed in the docket record indicates that an Office action was mailed on December 16, 2004 and includes a response period of March 16, 2005. The serial number for the application and other identifying information has been removed from the docket record. The applicants' need to clarify whether the application listed in the docket record is in fact the present application.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around March 16, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed December 16, 2004 was not received or placed in the file for application 09/803,987. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around March 16, 2005 is required.

Petitioner's evidence of non-receipt of the Office action mailed December 16, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

KJD/bkg 11/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Charles Calkins
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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MAR 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Holden et al.	:	
Application No. 09/803,987	:	
Filed: March 13, 2001	:	
For: SYSTEM AND METHOD FOR PROVIDING SERVICES USING A WEB HUB	:	DECISION ON PETITION

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed January 19, 2006, requesting withdrawal of the holding of abandonment.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed December 16, 2004. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned March 17, 2005. A Notice of Abandonment was mailed July 19, 2005.

July 21, 2005 Petition to Withdraw Holding of Abandonment

Applicant filed a petition to withdraw the holding of abandonment on July 21, 2005, wherein Applicant asserted that he did not receive the Office action. In support of this assertion, Applicant provided copies of a docket record; however, the application numbers were not included in the docket

records. As such, there was no way to determine which application(s) wherein the docket records were supposed to demonstrate non-receipt of the Office action.

The petition was dismissed in a Decision mailed November 21, 2005. Applicant was informed that the showing required to establish non-receipt of an Office communication must include the following:

(1) A statement from the practitioner stating the Office action was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received, and
(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP 711.03(c)

The Decision dismissing the petition required copies of the docket records with the list of all responses in the practitioner's office with the due date at and around March 16, 2005.

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration and includes copies of his docket record that have serial numbers identified where Office actions have been entered, save one.

A review of the docket record reveals that on page seven, a 3 month non final Office action was received by practitioner on January 5, 2005. The docket record further reveals that the Office action had a mail date of December 16, 2004 and a response due March 16, 2005. No corresponding application number has been included with this entry.

This entry corresponds with the communication mailed from this Office, to wit - a non-final Office action, mailed December 16, 2004, and a due date for response of March 16, 2005.

Accordingly, Applicant has failed to demonstrate that the non-final Office action, mailed December 16, 2004, with a due date for response due March 16, 2004, in the above-identified application, was not received.

The petition is dismissed.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply any and all **relevant** information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to 'show' non-receipt of the Office action. Therefore, if a request for reconsideration is filed, it must establish non-receipt of the Office communication.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Winston-Salem, NC 27101

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JUN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Holden et al.	:	
Application No. 09/803,987	:	
Filed: March 13, 2001	:	
For: SYSTEM AND METHOD FOR	:	DECISION ON
PROVIDING SERVICES USING A WEB HUB	:	PETITION

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed May 22, 2006, requesting withdrawal of the holding of abandonment.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed December 16, 2004. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned March 17, 2005. A Notice of Abandonment was mailed July 19, 2005.

July 21, 2005 Petition to Withdraw Holding of Abandonment

Applicant filed a petition to withdraw the holding of abandonment on July 21, 2005, wherein Applicant asserted that he did not receive the Office action. In support of this assertion, Applicant provided copies of a docket record; however, the application numbers were not included in the docket records. As such, there was no way to determine which application(s) wherein the docket records were supposed to demonstrate non-receipt of the Office action.

The petition was dismissed in a Decision mailed November 21, 2005. Applicant was informed that the showing required to

establish non-receipt of an Office communication must include the following:

(1) A statement from the practitioner stating the Office action was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received, and
(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP 711.03(c)

The Decision dismissing the petition required copies of the docket records with the list of all responses in the practitioner's office with the due date at and around March 16, 2005.

The January 19, 2006 Request for Reconsideration

Applicant filed a Request for Reconsideration on January 19, 2006 and included copies of his docket record that had serial numbers identified where Office actions had been entered, save one.

A review of the docket record revealed that on page seven, a three (3) month no-final Office action was received by practitioner on January 5, 2005. The docket record further revealed that the Office action had a mail date of December 16, 2004 and a response due March 16, 2005. No corresponding application number had been included with this entry.

This entry corresponded with the communication mailed from this Office, to wit - a non-final Office action, mailed December 16, 2004, and a due date for response of March 16, 2005.

The petition was dismissed because Applicant had failed to demonstrate that the non-final Office action, mailed December 16, 2004, with a due date for response due March 16, 2004, in the above-identified application, was not received.

The instant Renewed Petition

With the instant petition, Petitioner has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2879 for re-mailing of the December 16, 2004 non-final Office action.

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

C IRVIN MCCLELLAND
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Marshall, et al. :
Application No. 09/804,004 : ON PETITION
Filed: March 16, 2001 :
Docket No. 1305/23 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 29, 2006

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a proper response to the Notice of Non-Compliant Amendment mailed November 28, 2005. This Office action set a one (1) month period for reply. No reply having been received, the application became abandoned on December 29, 2005. A Notice of Abandonment was mailed on August 8, 2006.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The matter is being forwarded to Group Art Unit 2623 for consideration of the amendment filed September 29, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of :
Kenichi Iida :
Application No. 09/804,008 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No.

This is a decision on the petition filed, May 2, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2615 for processing of the request for continued examination under 37 CFR 1.114.

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).

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Paper No. 17

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JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of
James W. Forbes
Application No. 09/804,050
Filed: March 12, 2001
Attorney Docket No. 5699-31

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 10, 2003, 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;[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 March 12, 2001, 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 inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit ~~1892~~ 3677 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/705,056, filed November 2, 2000.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

NO DK

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
James Forbes, et al.
Application No. 09/804,050
Filed: March 12, 2001
Attorney Docket No. 5699-31

ON PETITION

This is a decision in response to a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed June 25, 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 10, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3617 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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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of
James Forbes, et al.
Application No. 09/804,050
Filed: March 12, 2001
Attorney Docket No. 5699-31

ON PETITION

This is a decision in response to a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed June 25, 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 10, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3617 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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Paper No. 9

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of :
Chi-Ying Tsui et al :
Application No. 09/804,069 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 4522/9 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 23, 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.

This application became abandoned for failure to timely submit a reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) on or before June 20, 2001.

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;[1] (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(d). This petition lacks item (3).

---

[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.

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In this regard, as to item (3), petitioner asserts that the delay was caused by nonreceipt of the Notice of Incomplete Reply (Nonprovisional) dated June 18, 2001.

The USPTO acknowledges the timely receipt of a partial reply on May 29, 2001. However, the Notice mailed April 20, 2001, additionally required the submission of substitute drawings in compliance with 37 CFR 1.84 because the "drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must have 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)." Therefore, timely compliance with this requirement must have been made in order to avoid the abandonment of the application. The Notice of Incomplete Reply (Nonprovisional) mailed June 18, 2001 again required the submission of substitute drawings and indicated that "[t]he period of reply **remains** as set forth in the Notice."

On reviewing the transmittal letter (Exhibit D) submitted with the partial reply of May 29, 2001, there is no indication that petitioner submitted substitute drawings as required by the April 20, 2001 Notice within the maximum extendable period for reply.

MPEP 608.02(b) states that "[i]f a drawing is not timely received in reply to a notice from the Office or a letter from the examiner who requires a drawing, the application becomes abandoned for failure to reply." That is, applicants were given Notice that substitute drawings had to be supplied to avoid the abandonment of this application.

Furthermore, petitioner concededly received the Notice of April 20, 2001 but failed to provide the necessary complete reply. The failure to supply a complete reply was the fault of petitioner, not the USPTO. As noted in Brenner v. Ebbert, 398 F.2d. 762, 157 USPQ 609, 611 (D.C. Cir. 1968), *cert. den.* 159 USPQ 799.

> The Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

It follows that petitioner has received the reasonable notice required so as ensure a timely and full response to the Notice. In this regard, the Notice of April 20, 2001 required, *inter alia*, the submission of substitute drawings and set a period within which to supply the reply required by the Notice. Since substitute drawings were not received at the time of filing the partial reply on May 20, 2001, the Office mailed a courtesy Notice of Incomplete Reply, but did not reset the period for supplying the drawings required by the Notice of April 20, 2001. Unfortunately, while the notice was mailed to the previous address, petitioner is advised that failure to receive this latter notice did not result in the abandonment of the application, but, rather, was due to applicants' failure to supply the complete reply as required by the Notice mailed April 20, 2001. It should be noted that, although attempts are made to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so. *See* In re Colombo Inc., 33 USPQ2d, 530, 1532 (Comm'r Pat. 1994). That petitioner failed to timely and adequately respond was unfortunate, but such failure did not operate to save this application from abandonment, nor was the failure to properly reply unavoidable delay. See Brenner, supra.

The Notice dated November 21, 2002 projected that the application would be "first examined in 12 to 15 months from today." Unfortunately, while this notice was improper, this notice was not a contributing factor in the abandonment of the application since it was mailed after the expiration of the extendable period for reply. Therefore, petitioner has failed to provide adequate evidence that the delay was unavoidable.

If petitioner cannot provide evidence of the nature required to establish unavoidable delay or simply does not wish to, petitioner may wish to consider filing a petition 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 $665.00 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).

Receipt is acknowledged of the substitute drawings. Unfortunately, the Office accidentally placed a stamp on the first page of the drawings sheet and is unusable. Therefore, a substitute drawing of sheet one is required.

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 Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 12

BROWN RAYSMAN MILLSTEIN
FELDER & STEI
900 THIRD AVENUE
NEW YORK, NY 10022

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Chi-Ying Tsui et al :
Application No. 09/804,069 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 4522/9 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 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 Nonprovisional Application (Notice) mailed April 20, 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 June 21, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The file is being forwarded to Technology Center AU 2171.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

September 22, 2003

Brian M. Long
Long and Cameron
1401 – 1166 Alberni St.
Vancouver, B.C. V6E 3Z3

In re application of:
Jefferson, Malcolm et al DECISION ON PETITION
Serial No.: 09/804,070
Filed: March 13, 2001
For: CHILD CARRIER ATTACHMENTS FOR BICYCLES

This is a decision on the petition received by fax on July 18, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts mailed on April 17, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned June 19, 2001. The Notice of Abandonment was mailed on July 1, 2003.

On August 15, 2002, the office received a communication from the applicant of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed on April 17, 2001.

The petition is hereby Granted.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed on April 17, 2001.

A new Notice to File Missing Part is enclosed with this petition giving counsel two months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Harold V Stotland
Seyfarth Shaw
Ste 4200
55 East Monroe St
Chicago IL 60603-5803

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of
Jefferson et al.
Application No. 09/804,070
Filed: March 13, 2001
Title: Child Carrier Attachments for Bicycles

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

This petition is hereby **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 timely file a response to a final Office Action which was mailed on November 10, 2004. The 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 February 11, 2005. A Notice of Abandonment was mailed July 7, 2005.

37 CFR 1.33(b) states in pertinent part:

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition has been executed by Philip Rimex whose relationship to the application is unknown. Although the transmittal letter and amendment contain the signature of an attorney of record, the petition has not been executed by a proper party.

The petition has **not** been reviewed on its merits.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Harold V Stotland
Seyfarth Shaw
Ste 4200
55 East Monroe St
Chicago IL 60603-5803

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Application of
Jefferson et al.
Application No.09/804,070
Filed: March 13, 2001
Title of Invention: Child Carrier Attachments for Bicycles

ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed May 29, 2007 and supplemented on September 4, 2007.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on November 10, 2004. The 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 February 11, 2005. A Notice of Abandonment was mailed July 7, 2005. A petition was dismissed on February 5, 2007.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $750.00 , and (3) a proper statement of unintentional delay.

Pursuant to petitioner's request deposit account no. 19-1351 has been charged the two month extension of time fee in the amount of $225.00.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See

37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

The application will be referred to Art Unit 3636 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

/Charlema R. Grant/

Charlema R. Grant

Petitions Attorney

Office of Petitions

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

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

Mail Date: 05/07/2010

Applicant	: Stephen Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7647373	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/804,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1672** 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

Foley & Lardner, LLP
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C., 20007-5143

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of
09/804,078
Application No. 09/804,078
Filed: March 13, 2001,
Attorney Docket No. 084335-0119

: DECISION GRANTING PETITION

This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely filed June 21, 2004 requesting that the Office adjust the amount of PTA determined at the time of the mailing of the notice of allowance from three hundred and sixty-one (361) days to an amount of four hundred and ten (410) days at the time of the mailing of the notice of allowance.

Applicant's request for reconsideration of the patent term adjustment determination is **GRANTED.** The Office will adjust the PAIR calculation to reflect a determination of four hundred and ten (410) days at the time of the mailing of the notice of allowance. The Office will provide a copy of the adjusted PAIR calculation with this decision.

Applicant asserts that the determination is incorrect because the Office assessed an overdue response to the Office action at eighty (80) days rather than thirty-one (days) calculated by applicant. Applicant asserts that the calculation is inaccurate because the Office measure the three month period from the initial Office action mail date rather than the mail date which restarted the three month response period.

Applicant's arguments are deemed persuasive. Applicant is correct in the amount of delay for failing to reply within three months should be limited to thirty-one days.[1]. Accordingly, the overall amount of applicant delay is thirty-one days since this was the only applicant delay. The Office did delay in the obligation to provide at least one notification under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 no later than fourteen months after the date on which the application was filed, a four hundred and forty-one (441) day delay. Accordingly the overall correct determination at the time of the mailing of the notice of allowance is four hundred and ten days (441-31= 410).

The Office has assessed the $200.00 petition fee required. No additional fees are necessary.

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[1]The Office action was remailed on September 16, 2003. Applicant had until December 16, 2003 to file a response without applicant delay. However, applicant did not reply until January 16, 2004, a thirty-one day delay.

078

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any additional delays for the Office's failure to issue the application within four months of the issue payment and all other requirements will be assessed at the time of the issuance of the patent.

Any questions related to this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries
for

Karin Ferriter,
Senior Legal Advisor,
Office of 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. 13

Pfizer, Inc.
201 Tabor Rd.
Morris Plains, NJ 07950

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
R. Scott et al.
Application No. 09/804,093
Filed: March 12, 2001
Attorney Docket No. 6511-11-EJF

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2003 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed August 22, 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 November 23, 2002.

This application is being forwarded to Technology Center AU 1615.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO CA 92101

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MAR 2 1 2002

OFFICE OF PETITIONS

In re Application of
Santhoff, Arrieta & Jolly
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
For: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 26, 2001(certificate of mailing date May 21, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventors, Rodolfo T. Arrieta and Donald W. Jolly have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of John Santhoff, Trish Lee, and Samantha Draper establish that the inventors were mailed or received the application papers, including the specification, claims and drawings, but refused/failed to respond to the request that they sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

The fee for a filing petition under 37 CFR 1.47 is $130.00. Although petitioner states that he submitted a check for $65.00, the Office has no record of receiving it. Accordingly, pursuant to petitioner's authorization, deposit account no. 02-04210 will be charged the $130.00 petition fee.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at their respective last known addresses given. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing. Thereafter the application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DONALD W. JOLLY
616 SOUTH GAY AVENUE
PANAMA CITY BEACH, FL 32404

In re Application of
Santhoff, Arrieta & Jolly
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
For: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

COPY MAILED

MAR 2 1 2002

OFFICE OF PETITIONS

Dear Mr. Jolly:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

RODOLFO T. ARRIETA
3616 OAKBROOK LANE
PANAMA CITY BEACH, FL 32408

In re Application of
Santhoff, Arrieta & Jolly
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
For: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

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MAR 2 1 2002

OFFICE OF PETITIONS

Dear Mr. Arrieta:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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#6

DONALD W. JOLLY
616 SOUTH GAY AVENUE
PANAMA CITY BEACH, FL 32404

In re Application of
Santhoff, Arrieta & Jolly
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
For: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

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MAR 2 1 2002

OFFICE OF PETITIONS

Dear Mr. Jolly:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 2 2 2002
Technology Center 2600

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OFFICE OF PETITIONS

ATTORNEY OF RECORD: MITCHELL P. BROOK
BAKER & MCKENZIE
101 BROADWAY, TWELFTH FLOOR
SAN DIEGO CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of
John H. Santhoff et al.
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
Title: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed September 13, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on December 31, 2001. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Unfortunately, it does not appear that a Notice of Rescission of Nonpublication Request has been filed with the Office. As such, Petitioner has not rescinded the previous nonpublication request.

Accordingly, the petition under 37 C.F.R. §1.137(f) is **DISMISSED**.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Any response 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 submission should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(f)."

On renewed petition, Petitioner should submit a Notice of Rescission of Nonpublication Request. A form which Petitioner might find useful may be found at http://www.uspto.gov/web/forms/sb0036.pdf

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

See Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to ensure that your submission is delivered to the undersigned.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

4 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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OFFICE OF PETITIONS

In re Application of
John H. Santhoff et al.
Application No. 09/804,110
Filed: March 12, 2001
Attorney Docket No. 39129-1006
Title: HAND-OFF BETWEEN ULTRA-WIDEBAND CELL SITES

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the renewed petition filed November 3, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner filed the original petition on September 13, 2004, and set forth that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on December 31, 2001. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

A decision was mailed October 21, 2004, dismissing the petition for failure to rescind the nonpublication request.

On November 3, 2004, a Notice of Rescission of Nonpublication Request was filed with this

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

renewed petition.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §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 C.F.R. §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), filed with the original application papers, has been rescinded. Unfortunately, due to a software problem the Office is currently experiencing, the Office cannot determine the projected publication date at this time.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of
Mori et al.
Application No.09/804,249
Filed: March 13, 2001
Title of Invention: Electronic Mail System and Electronic Mail Delivery Method

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 26, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of December 15, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on May 8, 2006 with a request for a two month extension of time. An Advisory Action mailed on June 6, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on May 16, 2006. 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**.

A three (3) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time 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) Petitioner's six (6) month statutory period expired on June 16, 2006. Petitioner is ineligible for any extensions of time. Accordingly, the $570.00 will be refunded.

The Request for Continued Examination (RCE), and the amendment previously submitted will be 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

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

Paper No. 6

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

COPY MAILED

MAY 3 0 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Shigenabu Sekine :
Application No. 09/804,299 :
Filed: March 13, 2001 :
Attorney Docket No. 46-191 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed April 16, 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 June 18, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

NIXON PEABODY, LLP
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN VA 22102

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Yasuhiro Shimada et al :
Application No. 09/804,311 :
Filed: March 13, 2001 :
Attorney Docket No. 0819-520 :

This is a decision on the petition, filed April 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 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 2815 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 23

NIXON PEABODY LLP
8180 GREENSBORO DRIVE, SUITE 800
McLEAN, VA 22102

COPY MAILED

NOV 0 3 2003

OFFICE OF PETITIONS

In re Application of
Yasuhiro Shimada et al
Application No. 09/804,311
Filed: March 13, 2001
Attorney Docket No. 0819-520

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed October 10, 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 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.

The application file is being forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

KINNEY & LANGE P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

COPY MAILED

OCT 2 3 2001

OFFICE OF PETITIONS

In re Application of	:	
William J. Swanson et al	:	DECISION DISMISSING
Application No. 09/804,401	:	PETITION
Filed: March 13, 2001	:	
Attorney Docket No. S697.12-0027	:	

This is a decision on the petition filed May 7, 2001, requesting that the above-identified application be accorded a filing date of February 27, 2001.

Petitioners allege that the application was deposited in Express Mail service on February 27, 2001, and, under 37 CFR 1.10, should be accorded that date as the filing date instead of the presently accorded filing date of March 13, 2001.

37 CFR 1.10(a) 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).

37 CFR 1.10(c) states that:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of

deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

As clearly stated in 37 CFR 1.10(a), the date of deposit with the United States Postal Service (USPS) is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. Thus, any petition alleging that the PTO did not accord a paper the date of deposit in Express Mail service as the filing date must be accompanied by "a true copy of the 'Express Mail' mailing label showing the 'date-in,' and of any other official notation by the USPS relied upon to show the date of deposit." 37 CFR 1.10(c)(3).

The present petition is not accompanied by the evidence required by 37 CFR 1.10.

Accordingly, the petition is dismissed.

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 Technology Center AU 1722 with the presently accorded filing date of March 13, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 15

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

COPY MAILED

APR 15 2003

Director's Office
Office of Patent Publication

In re Application of :
James W. Forbes :
Application No. 09/804,406 :
Filed: March 12, 2001 :
Attorney Docket No. 5699-32 :

DECISION ON PETITION

This is a decision on the Petition for Withdrawal of Notice of Abandonment received via facsimile transmission on February 19, 2003, which is being treated as a Petition to Withdraw the Holding of Abandonment under 37 C.F.R. § 1.181(a), for the above-identified application.

The petition is **Granted**.

The petitioner has provided supporting evidence that the RCE was timely submitted via Certificate of Mailing on December 24, 2002 and is in compliance with 37 CFR 1.8(b) in that (1) the Patent and Trademark Office (PTO) was promptly informed of the previous timely mailing, (2) a copy of the previously mailed RCE, with Certificate of Mailing thereon has been submitted, and (3) affidavits which attest to the previous timely mailing have been submitted.

In view of the above, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn. Accordingly, the RCE will be accepted as having been timely mailed via Certificate of Mailing on December 24, 2002.

Application No. 09/804,406 will be forwarded to the Examiner of Record to act on the RCE.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-5340.

Frederick E. Briscoe

Frederick E. Briscoe
Legal Instruments Examiner
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 24

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

COPY MAILED

JAN 21 2004

OFFICE OF PETITIONS

In re Application of
James W. Forbes
Application No. 09/804,406
Filed: March 12, 2001
Attorney Docket No. 5699-32

ON PETITION

This is a decision on the petition, filed December 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,659,016 on December 9, 2003.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application.[1] The inconvenience caused petitioner in this matter is sincerely regretted.

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed.

Petitioner's attention is also directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

A decision on the petition under 37 CFR 1.78(a)(3) will be held in abeyance pending submission of a certificate of correction and $100 fee therefor. In this regard, petitioner's attention is directed to MPEP 1481.

Applicant is given **ONE (1) MONTH** from the mail date of this decision to reply to the above.

---

[1] The instant petition and application file was received in the Office of Petitions on January 13, 2004 (after issuance of the instant application into a patent), the deciding official for petitions to withdraw from issue after payment of the issue fee under 37 CFR 1.313(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, Va 22313-1450

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room IB03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 26

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313

Certificate of Correction
MAR 31 2004

COPY MAILED
MAR 30 2004
OFFICE OF PETITIONS

In re Application of
James W. Forbes
Application No. 09/804,406
Filed: March 12, 2001
Attorney Docket No. 5699-32

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/705,056, filed November 2, 2000. This is also a decision on the supplemental petition filed February 23, 2004, with a Certificate of Correction.

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]
> **(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 application was filed on March 12, 2001, 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 inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to the Certificate of Correction Branch to process the Certificate of Correction filed February 23, 2004.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 27

DATE : 4-7-04

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 6659017

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.

E. James

Thank You For Your Assistance

Certificates of Correction Branch

Should Reg. Be Granted?

Thanks

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:

per petition decision

SPE

3617
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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Teruhiko Suzuki et al :
Application No. 09/804,434 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 450100-03059 :

This is a decision on the petition, filed July 8, 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 May 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2613 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-10-09

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/804457 Patent No.: 7399599

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

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ SPE

1646 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/06

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/804458** Patent No.: **6969449**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The correction to p. 108 (col. 72 of the patent) is denied, The original disclosure did not show the requested correction.

Nam Nguyen — **SPE**

1753 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/06

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/804458** Patent No.: **6969449**

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**.

/AGreen/

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	All changes apply.
☒ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: The correction to p. 108 (col. 72 of the patent) is denied. The original disclosure did not show the requested correction.

with payment of fee, correction to p. 108 now approved.

/Nam Nguyen/ 1753

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

MAR 1 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Ira V. Haffan
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Kaliski, Jr.
Application No. 09/804,460
Filed: March 12, 2001
For: SERVER-ASSISTED REGENERATION OF A STRONG SECRET FROM A WEAK SECRET

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 08, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 08, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Eric L. Prahl, Esq.
HALE AND DORR LLP
60 State Street
Boston, MA 02109

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WILMER CUTLER PICKERING
HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of
Burton S. Kaliski, Jr.
Application No. 09/804,460
Filed: March 12, 2001
Attorney Docket No. 081004.174US1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/188,458, filed March 10, 2001.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) and (iii) to 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)(5)(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.

This pending nonprovisional application was filed on March 12, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/188,458, which was filed on March 10, 2000,[1] and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first paragraph of the specification following the title, as well as in an Application Data Sheet.

The amendment to the specification to add a claim for benefit of priority to the prior-filed provisional application is not acceptable since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit

[1] March 10, 2001, was a Saturday.

claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

However, the Application Data Sheet is acceptable as it does not include an incorporation-by-reference to the above-noted provisional application.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 08-0219.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2134 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/804,460	03/12/2001	2134	1200	RSA-053	8	40	3

CONFIRMATION NO. 8764

23483
WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

CORRECTED FILING RECEIPT

OC000000022366531

Date Mailed: 02/07/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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)

Burton S. Kaliski JR., Wellesley, MA;

Power of Attorney: The patent practitioners associated with Customer Number **23483**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/188,458 03/10/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/21/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/804,460

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Server-assisted regeneration of a strong secret from a weak secret

Preliminary Class

380

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Patent No. 6,773,695 :
Issue Date: August 10, 2004 :
Application No. 09/804,464 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 05184.00002 :

This is a decision on the petition filed October 25, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The certificate of correction fee of $100 under 37 CFR 1.20(a) has been charged to petitioner's deposit account No. 19-0733 as authorized by Lisa Hemmendinger in the instant petition.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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CELERA GENOMICS CORPORATION
45 WEST GUDE DR. C2-4#20
ROCKVILLE, MD 20850

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OFFICE OF PETITIONS

In re Application of	:	
Wei Shao et al	:	
Application No. 09/804,472	:	ON PETITION
Filed: March 13, 2001	:	
Attorney Docket No. CL001163	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, 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 June 29, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on August 30, 2004. See MPEP 1215.04.

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 a continuing application.

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 Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LIN SUN-HOFFMAN
45 WEST GUDE DRIVE, C-1#316
ROCKVILLE, MD 20850

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

VAN DYKE & ASSOCIATES, P.A.
7200 LAKE ELLENOR DRIVE
SUITE 252
ORLANDO, FL 32809

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APR 1 7 2003

OFFICE OF PETITIONS

In re Application of
Grant
Application No. 09/804,484
Filed: March 12, 2001
Attorney Docket No. UP-10287
UF

ON PETITION

This decision concerns the March 25, 2003 petition under 37 CFR 1.10(d), which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **DISMISSED.**

Petitioner requests a filing date of March 12, 2001 rather than the presently accorded filing date of March 13, 2001, on the basis that the application was deposited on March 12, 2001 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

Under 37 CFR 1.10(c), any person filing correspondence that was received by the Office and delivered by the "Express Mail" service may petition the Commissioner if there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. However, such a petition must **include,** *inter alia,* **a true copy of the "Express Mail" mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit.**[1] The instant petition lacks such a copy of "Express Mail" mailing label.

While the application transmittal, a copy of which is enclosed with the petition, bears an "Express Mail" mailing label number ET 321924891 US and contains a March 12, 2001 Certificate of Mailing by "Express Mail," such a Certificate of Mailing in accordance with 37 CFR 1.10, without more, merely indicates an intent to deposit the application papers in the USPS "Express Mail" service on that day.

Also supplied with the petition is a copy of a USPS correspondence to counsel, confirming that the mail deposited under the above "Express Mail" mailing label number "was delivered on March 13, 2001 at 10:41 AM . . .." Relying on this correspondence, the petition in essence argues that the application papers, if delivered to the PTO by the USPS on March 13, 2001 at 10:41am, must have been deposited in the "Express Mail" service the day before, i.e, on March 12, 2001. Unfortunately, the Office is not authorized, and has no basis, to extrapolate from the information provided by the USPS to reach such a conclusion.

In view of the above, the petition is dismissed. No petition fee is owed.

The application is being returned to Technology Center 1600 for examination of the amendment filed concurrently with the petition.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[1] See also MPEP section 513 (Aug. 2001).

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VAN DYKE & ASSOCIATES, P.A.
7200 LAKE ELLENOR DRIVE
SUITE 252
ORLANDO, FL 32809

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Grant :
Application No. 09/804,484 : ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. UF-10287 :

This decision concerns the renewed petition under 37 CFR 1.10(c), filed by facsimile on June 26, 2003.

The petition is **GRANTED.**

The previous petition under 37 CFR 1.10(c), filed on March 25, 2003, was accompanied by a letter from the U.S. Postal Service, indicating that the instant application had been delivered to the PTO on March 13, 2001 at 10:41 am. That petition, requesting a March 12, 2001 filing date, was dismissed on April 17, 2003 for lacking sufficient showing that the application papers had been deposited in the U.S. "Express Mail Post Office to Addressee" service on March 12, 2001, a day before the confirmed delivery date.

The instant renewed petition encloses another letter from the Postal Service, stating, in essence, that for this package, mailed from Orlando, Florida, to arrive in Washington, DC on March 13, 2001 at 10:41 am, it had to have been deposited in the "Express Mail" service on March 12, 2001 or earlier.

Therefore, for this application, the latest establishable date of deposit in the "Express Mail" service is March 12, 2001. The petition is thus granted.

No petition fee is owed.

The application is being forwarded to the Office of Initial Patent Examination for correcting the filing date to March 12, 2001, and for issuance of a revised filing receipt reflecting that filing date. Thereafter, the file will be returned to Technology Center 1600 to await a response to the May 22, 2003 final Office Action.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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Paper No.

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Burkly et al.	:	DECISION ON APPLICATION
Application No. 09/804,490	:	FOR
Filed: March 12, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. CIBT-P01-114	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 21, 2008. Applicants request that the initial determination of patent term adjustment be corrected from two hundred seventy-eight (278) days to five hundred ten (510) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED SIXTY-TWO (462) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 18, 2008, 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 278 days. On July 21, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request correction of the PTA to 510 days.

Applicants state that this patent is not subject to a terminal disclaimer.

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[1] The Issue Fee payment was also received on July 21, 2008.

Applicants' bases for correction of the patent term adjustment have been considered and found persuasive to an extent. Applicants are correct that the patent term adjustment should be reduced:

- by 56 days, pursuant to 37 CFR 1.704(b), for the RCE filed August 4, 2005. A period of reduction of 56 days has been entered;
- pursuant to 37 CFR 1.704(c)(8), for the filing of a supplemental response, not requested by the examiner, on January 11, 2008. However, the period of reduction is 29 days (not 28 days), beginning on December 14, 2007 and ending on January 11, 2008 and is being entered;
- pursuant to 37 CFR 1.704(c)(8), for the filing of a supplemental response, not requested by the examiner, on March 5, 2008. The response, an IDS, did not include a § 1.704(d) statement. However, the period of reduction is 54 days (not 53 days) beginning on January 12, 2008 and ending on March 5, 2008 and is being entered.

Further, a review of applicants' response filed May 27, 2004 shows that applicants established by *prima facie* evidence in the form of a date-stamped return postcard that the response was originally filed on October 27, 2003. This was within three months of the mailing of the restriction requirement on October 2, 2003. Thus, with respect to responding to the restriction requirement, applicants did not fail to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b). Accordingly, the period of reduction of 130 days is being removed.

Furthermore, given that the response was filed on October 27, 2003, applicants are entitled to a period of adjustment for Office delay. The Office did not mail an action in response until September 7, 2004, four months and 193 days later. Accordingly, a period of adjustment of 193 days for Office delay is being entered.

However, consideration of any period of reduction for applicants' filing of an amendment on June 5, 2008 after the mailing of the notice of allowance on April 18, 2008 is premature. The revised patent term adjustment indicated on the patent will include any period of reduction warranted pursuant to 37 CFR 1.704(c)(10) for the filing of this amendment. If

not, applicants should timely file a letter pursuant to their duty of good faith and candor to the Office.
In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is FOUR HUNDRED SIXTY-TWO (462) days (508 + 193 + 39 days for Office delay minus 2 + 56 + 62 + 41 + 34 + 29 + 54 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 is being forwarded to the Office of Data Management for issuance of the application. 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 adjusted PALM calculation

PTA Calculations for Application: 09/804490			
Application Filing Date:	03/12/2001	PTO Delay (PTO):	547
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	269
Post-Issue Petitions:	0	Total PTA (days):	462
PTO Delay Adjustment:	184		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		56	
105	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	193		
104	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	130		
103	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
102	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		54	
90	04/18/2008	MAIL NOTICE OF ALLOWANCE			
89	04/16/2008	ISSUE REVISION COMPLETED			
88	04/16/2008	DOCUMENT VERIFICATION			
87	04/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	04/11/2008	NOTICE OF ALLOWABILITY			
82	12/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
81	03/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	03/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	12/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	03/06/2008	DATE FORWARDED TO EXAMINER			
77	01/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
76	03/06/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
74	01/07/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
73	12/17/2007	EXPORT TO INITIAL DATA CAPTURE			
72	12/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	12/13/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			

70	11/07/2007	MAIL NOTICE OF ALLOWANCE	39		62
69	09/28/2007	ISSUE REVISION COMPLETED			
68	09/28/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	09/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
66	09/28/2007	DOCUMENT VERIFICATION			
65	09/28/2007	NOTICE OF ALLOWABILITY			
64	09/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
63	06/05/2007	DATE FORWARDED TO EXAMINER			
62	05/29/2007	RESPONSE AFTER NON-FINAL ACTION		34	60
61	05/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
60	01/25/2007	MAIL NON-FINAL REJECTION			
59	01/22/2007	NON-FINAL REJECTION			
58	11/07/2006	DATE FORWARDED TO EXAMINER			
57	10/27/2006	RESPONSE AFTER NON-FINAL ACTION		41	55
56	10/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	06/16/2006	MAIL NON-FINAL REJECTION			
54	06/12/2006	NON-FINAL REJECTION			
53	03/29/2006	DATE FORWARDED TO EXAMINER			
52	03/22/2006	RESPONSE AFTER NON-FINAL ACTION		62	49
51	03/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	03/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	10/19/2005	MAIL NON-FINAL REJECTION			
48	10/17/2005	NON-FINAL REJECTION			
47	08/10/2005	DATE FORWARDED TO EXAMINER			
46	08/04/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	08/10/2005	DATE FORWARDED TO EXAMINER			
44	08/04/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	08/10/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	08/04/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/04/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			

39	03/09/2005	MAIL FINAL REJECTION (PTOL - 326)			
38	03/07/2005	FINAL REJECTION			
37	12/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
36	12/30/2004	DATE FORWARDED TO EXAMINER			
35	12/09/2004	RESPONSE AFTER NON-FINAL ACTION		2	33
34	12/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
33	09/07/2004	MAIL NON-FINAL REJECTION			
32	09/03/2004	NON-FINAL REJECTION			
31	05/27/2004	MISCELLANEOUS INCOMING LETTER			
30	06/28/2004	DATE FORWARDED TO EXAMINER			
29	05/11/2004	RESPONSE TO ELECTION / RESTRICTION FILED		130	24
28	05/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
27	05/14/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
26	05/11/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	05/11/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	10/02/2003	MAIL RESTRICTION REQUIREMENT	508		-1
23	10/01/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
22	05/05/2003	CASE DOCKETED TO EXAMINER IN GAU			
21	07/05/2002	PRELIMINARY AMENDMENT			
20.7	09/10/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/10/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	01/09/2003	APPLICATION IS NOW COMPLETE			
18	03/12/2001	ADDITIONAL APPLICATION FILING FEES			
17	03/12/2001	TRANSLATION OF CLAIMS INTO ENGLISH			
16	03/12/2001	CLAIM PRELIMINARY AMENDMENT			
15	06/28/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
14	07/01/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
13	05/17/2002	SEQUENCE ERRORS			
12	08/16/2001	ADDITIONAL APPLICATION FILING FEES			
11	05/17/2002	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	04/23/2002	APPLICATION MADE UNAVAILABLE FOR EXAMINATION			

9	10/11/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	08/16/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
6	09/27/2001	APPLICATION DISPATCHED FROM OIPE			
5	09/26/2001	APPLICATION IS NOW COMPLETE			
4	05/21/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/21/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/09/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/12/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 10

Joseph S. Tripoli
THOMSON Multimedia Licensing Inc.
Patent Operations,
P.O. Box 5312
Two Independence Way
Princeton NJ 08543-5312

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APR 12 2004
OFFICE OF PETITIONS

In re Application of : Willis : Filed: March 12, 2001 : ON PETITION Application No. 09/804,554 : Atty. Dkt. No.: PU010053 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2004, to revive the above-identified application.

The petition is hereby **GRANTED**.

This application became abandoned November 1, 2003 for failure to timely file a proper response to the non-final Office action mailed July 31, 2003. The non-final Office action set a three (3) month shortened statutory period of time for response. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed March 11, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 of 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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 non-final Office action mailed July 31, 2003 is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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THOMSON multimedia Licensing Inc.
Patent Operations,
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Princeton, NJ 08543-5312

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of

Donald Henry Willis

Application No. 09/804,554

Filed: March 12, 2001

Attorney Docket No. PU010053

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 9, 2005.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 20, 2005, after it was believed that no response was received to the non-final Office action mailed May 20, 2005. The non-final Office action allowed a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on December 28, 2005, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on November 19, 2005, with a request for an extension of time within the third month. A copy of the amendment containing a certificate of transmission under 37 CFR 1.8 dated November 19, 2005, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2600, GAU 2614, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PA-IDC #16

ERY CONTROL FORM			RTIS USE ONLY
pplication No. 09804580	Prepared by	ewc	Tracking Number 05833710
Examiner-GAU Redding 1744	Date	11-7-03	Week Date 9-22-03
	No. of queries	-1-	T3

JACKET			
a. Serial No.	f. Foreign Priority	k. Print Claim(s)	p. PTO-1449
b. Applicant(s)	g. Disclaimer	l. Print Fig.	q. PTOL-85b
c. Continuing Data	h. Microfiche Appendix	m. Searched Column	r. Abstract
d. PCT	i. Title	n. PTO-270/328	s. Sheets/Figs
e. Domestic Priority	j. Claims Allowed	o. PTO-892	t. Other

SPECIFICATION	MESSAGE
a. Page Missing	Print Fig on Face of File is blank
b. Text Continuity	
c. Holes through Data	Please advise
d. Other Missing Text	Thank you
e. Illegible Text	ewc
f. Duplicate Text	
g. Brief Description	
h. Sequence Listing	
i. Appendix	
j. Amendments	
k. Other	
CLAIMS	
a. Claim(s) Missing	
b. Improper Dependency	
c. Duplicate Numbers	
d. Incorrect Numbering	initials
e. Index Disagrees	**RESPONSE** corrected
f. Punctuation	
g. Amendments	
h. Bracketing	
i. Missing Text	
j. Duplicate Text	
k. Other	initials

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of :
Wang, et al. : DECISION ON APPLICATION
Application No. 09/804,625 : FOR PATENT TERM ADJUSTMENT
Filed: March 09, 2001 :
Atty. Dkt. No: 08702.0039-02000 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR § 1.705(b)," filed March 12, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicants argue that the patent term adjustment accorded the instant application was improperly reduced 98 days.

The correct patent term adjustment (PTA) at the time of the allowance is 98 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 98 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants argue that the application is entitled to an adjustment of 340 days in connection with the mailing of the restriction requirement on April 14, 2003, rather than 278 days as previously accorded.

A review of the record reveals that applicants are correct. The application is entitled to an adjustment of 340 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement. The adjustment began May 10, 2002, the day after the date that is 14 months after the date that the application was filed, and ended April 14, 2003, the date that the restriction requirement was mailed. *See*, 37 CFR 1.703(a)(1).

Applicants have not contested the adjustment of 21 days accorded under 37 CFR 1.702(a)(2) in connection with the mailing of the non-final Office action on November 3, 2003 nor have applicants

contested any of the reductions accorded for applicants' failure to engage in reasonable efforts to conclude prosecution.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 98 days (the adjustment totaling 361 days having been reduced 263 days), as argued by applicants.

The Office hereby acknowledges receipt of the required $200.00 patent term adjustment application fee.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 8/27/2007

PALM INTRANET

Time: 14:59:33

PTA Calculations for Application: 09/804625			
Application Filing Date:	03/09/2001	PTO Delay (PTO):	299
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	263
Post-Issue Petitions:	0	Total PTA (days):	98
PTO Delay Adjustment:	62		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	08/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	62		
76	01/24/2007	MAIL NOTICE OF ALLOWANCE			
75	01/22/2007	ISSUE REVISION COMPLETED			
74	01/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	01/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
72	01/22/2007	NOTICE OF ALLOWABILITY			
71	11/20/2006	PARALEGAL TD ACCEPTED			
70	11/19/2006	DATE FORWARDED TO EXAMINER			
69	11/08/2006	RESPONSE AFTER NON-FINAL ACTION		14	67
68	11/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
67	07/25/2006	MAIL NON-FINAL REJECTION			
66	07/24/2006	NON-FINAL REJECTION			
65	05/19/2006	DATE FORWARDED TO EXAMINER			
64	05/08/2006	RESPONSE AFTER NON-FINAL ACTION		1	63
63	02/07/2006	MAIL NON-FINAL REJECTION			
62	02/06/2006	NON-FINAL REJECTION			
61	11/16/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
60	11/28/2005	DATE FORWARDED TO EXAMINER			
59	11/16/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
58	11/28/2005	DATE FORWARDED TO EXAMINER			
57	11/16/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	49
56	11/28/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

55	11/16/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	11/16/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	09/20/2005	MAIL ADVISORY ACTION (PTOL - 303)			
52	09/16/2005	ADVISORY ACTION (PTOL-303)			
51	08/11/2005	DATE FORWARDED TO EXAMINER			
50	08/02/2005	AMENDMENT AFTER FINAL REJECTION			
49	05/17/2005	MAIL FINAL REJECTION (PTOL - 326)			
48	05/16/2005	FINAL REJECTION			
47	03/30/2005	REFERENCE CAPTURE ON IDS			
46	03/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		36	43
45	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
44	03/08/2005	DATE FORWARDED TO EXAMINER			
43	02/22/2005	RESPONSE AFTER NON-FINAL ACTION		92	39
42	03/07/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
41	02/04/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
40	12/02/2004	DATE FORWARDED TO EXAMINER			
39.1	11/22/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
39	11/22/2004	RESPONSE AFTER NON-FINAL ACTION			
38	11/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
37	11/19/2004	MAIL NON-FINAL REJECTION			
36	11/19/2004	NON-FINAL REJECTION			
35	09/18/2004	DATE FORWARDED TO EXAMINER			
34	09/09/2004	RESPONSE AFTER NON-FINAL ACTION		23	30
33	09/09/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	09/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
31	05/17/2004	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
30	05/17/2004	MAIL NON-FINAL REJECTION			
29	05/17/2004	NON-FINAL REJECTION			
28	03/11/2004	IFW AMENDED CASE PROCESSING COMPLETE			
27	03/11/2004	DATE FORWARDED TO EXAMINER			
26	02/09/2004	RESPONSE AFTER NON-FINAL ACTION		6	22
25	02/09/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S)			

		RECEIVED			
24	02/09/2004	TERMINAL DISCLAIMER FILED			
23	03/09/2004	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
22	11/03/2003	MAIL NON-FINAL REJECTION	21		19
21	11/03/2003	NON-FINAL REJECTION			
20	08/28/2003	DATE FORWARDED TO EXAMINER			
19	06/13/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
18	06/13/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	04/14/2003	MAIL SUPPLEMENTAL RESTRICTION / ELECTION REQUIREMENT			
16	04/14/2003	SUPPLEMENTAL RESTRICTION			
15	04/14/2003	CORRESPONDENCE ADDRESS CHANGE			
14	02/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	02/11/2003	MAIL RESTRICTION REQUIREMENT	278		-1
12	02/10/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
11	03/09/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/09/2001	PRELIMINARY AMENDMENT			
9	02/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	02/05/2002	APPLICATION DISPATCHED FROM OIPE			
7	01/15/2002	APPLICATION IS NOW COMPLETE			
6	01/14/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	06/12/2001	CORRESPONDENCE ADDRESS CHANGE			
4	06/12/2001	CORRESPONDENCE ADDRESS CHANGE			
3	05/02/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/28/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/09/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6415466	2002-07-09	09/804,632	2001-03-12	P01-131-LAI

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	/RICHARD A. JOEL/	Date (YYYY-MM-DD)	2007-09-19
Name	RICHARD A. JOEL	Registration Number	22212

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6415466
Issue Date: July 9,2002
Application No. 09804632
Filed: March 12,2001
Attorney Docket No. PO1-131-LAI

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 19,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 19,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Petition Office

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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Paper 14

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
SUITE 500
4350 LA JOLLA VILLAGE DRIVE
SAN DIEGO CA 92122

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JUN 06 2006
OFFICE OF PETITIONS

In re Application of
Hongyong Zhang et al.
Application No. 09/804,654
Filed: March 12, 2001
Attorney Docket No.
07977/097003/US3176D1D1

ON PETITION

This is a decision on the petition filed August 4, 2003, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned October 18, 2002 for failure to file a timely response to the non-Final Office Action mailed July 17, 2002 and which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 3, 2003.

The file record discloses that the non-Final Office Action was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Office Action was not received. In support, petitioner indicates that a search of the file jacket revealed that the Office Action was not received and submits copies of pages from the mail log as well as the docketing system, wherein receipt of the non-Final Office Action would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2826 for a remailing of the non-Final Office Action previously mailed July 17, 2002.

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

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang :
Application No.: 09/804,654 :
Filed: March 12, 2001 :
Attorney Docket No.: 07977/097003/US3176D1D1 :

ON PETITION

This is a decision on the petition, filed May 9, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 10, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571)272-3204.

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper 14

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
SUITE 500
4350 LA JOLLA VILLAGE DRIVE
SAN DIEGO CA 92122

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JUN 06 2006
OFFICE OF PETITIONS

In re Application of
Hongyong Zhang et al.
Application No. 09/804,654
Filed: March 12, 2001
Attorney Docket No.
07977/097003/US3176D1D1

ON PETITION

This is a decision on the petition filed August 4, 2003, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned October 18, 2002 for failure to file a timely response to the non-Final Office Action mailed July 17, 2002 and which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 3, 2003.

The file record discloses that the non-Final Office Action was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Office Action was not received. In support, petitioner indicates that a search of the file jacket revealed that the Office Action was not received and submits copies of pages from the mail log as well as the docketing system, wherein receipt of the non-Final Office Action would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2826 for a remailing of the non-Final Office Action previously mailed July 17, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Zhang
Application No. 09/804,654
Filed: March 12, 2001
Atty. Dkt. No.: 07977/097003/US3176D1D1

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed August 29, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Determination of Patent Term Adjustment mailed June 2, 2008 indicated that the application is entitled to adjustment of zero days. Applicant argues that the correct reduction for applicant delay is 84 days and that the correct adjustment for Office delay is 1,519 (915 days for delayed response to petition to withdraw holding of abandonment and 604 days for issuance beyond three years from filing date).

The correct PTA at the time of the allowance is zero days as indicated herein.

Applicants assert that the Office neglected to assess a reduction of one day in connection with the petition filed August 4, 2003.

The correct reduction in this regard is one day, as asserted by applicant. The reduction commenced August 4, 2003, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ended August 4, 2003, the date that the petition to withdraw the holding of abandonment was filed.

Applicant contests that the reduction under 37 CFR 1.704(b) of 246 days in connection with the response filed June 14, 2007 and assert that the correct reduction in this regard is 17 days.

The correct reduction in this regard is 17 days, as asserted by applicant. In accordance with 37 CFR 1.704(b), the reduction commenced May 29, 2007, the day after the date that is three months after the date that the non-final Office action was mailed, and ended June 14, 2007, the date that the response was filed.

Applicants asserts that the Office neglected to assess a reduction of 29 days in connection with "supplemental" replies pursuant to 37 C.F.R. § 1.705(c)(8)..."

The correct reduction in this regard is actually 25 days pursuant to 37 CFR 1.705(c)(10). A Notice of Allowance was mailed on January 11, 2008. Applicant filed a Request for Continued Examination (RCE) May 9, 2008. Prior to filing the RCE, applicant paid the issue fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE after the mailing of the Notice of Allowance on January 11, 2008 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 25 days, counting the number of days in the period beginning on May 9, 2008 and ending on June 2, 2008, the date of mailing of the Notice of Allowance in response.

Applicant further argues that the application is entitled to an adjustment of 915 for "delayed response to Petition to Withdraw Holding of Abandonment..."

It is noted that a petition to withdraw the holding of abandonment was filed August 4, 2003 and that a decision was mailed June 6, 2006. However, 37 CFR 1.702 does not provide grounds for adjustment for Office failure to respond within a certain time period to a petition filed by an applicant. According, the application is not subject to further adjustment with regard to this particular matter.

The instant application for patent term adjustment also requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicant is reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Applicant is further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

In view thereof, as of the time of allowance, the application is accorded zero days of adjustment (adjustment totaling zero days less reductions totaling 80 days).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 15:45:30

PTA Calculations for Application: 09/804654			
Application Filing Date:	03/12/2001	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	283
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	203		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
104	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
103	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		17	
102	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
101	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	246		
94	06/02/2008	MAIL NOTICE OF ALLOWANCE			
93	05/28/2008	ISSUE REVISION COMPLETED			
92	05/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	05/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
90	05/28/2008	NOTICE OF ALLOWABILITY			
89	05/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	05/27/2008	DOCUMENT VERIFICATION			
87	05/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	05/09/2008	REFERENCE CAPTURE ON IDS			
85	05/09/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
84	05/22/2008	DATE FORWARDED TO EXAMINER			
83	05/09/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
82	05/22/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
81	05/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	05/12/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			

79	05/12/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
78	05/12/2008	WITHDRAWAL PATENT CASE FROM ISSUE			
77	05/12/2008	WITHDRAWAL PATENT CASE FROM ISSUE			
76	05/09/2008	PETITION ENTERED			
75	03/12/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	05/09/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	04/23/2008	ISSUE NOTIFICATION MAILED			
72	05/13/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
71	04/14/2008	EXPORT TO FINAL DATA CAPTURE			
70	04/11/2008	DISPATCH TO FDC			
69	04/11/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
68	04/10/2008	ISSUE FEE PAYMENT VERIFIED			
67	04/10/2008	ISSUE FEE PAYMENT RECEIVED			
66	03/07/2008	FINISHED INITIAL DATA CAPTURE			
65	01/15/2008	EXPORT TO INITIAL DATA CAPTURE			
64	01/11/2008	MAIL NOTICE OF ALLOWANCE			
63	01/10/2008	ISSUE REVISION COMPLETED			
62	01/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	01/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
60	01/07/2008	DOCUMENT VERIFICATION			
59	01/07/2008	NOTICE OF ALLOWABILITY			
56	11/27/2007	DATE FORWARDED TO EXAMINER			
55	11/20/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	11/27/2007	DATE FORWARDED TO EXAMINER			
53	11/20/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	11/27/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	11/20/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	09/04/2007	MAIL FINAL REJECTION (PTOL - 326)			
49	08/28/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
48	08/23/2007	FINAL REJECTION			

47	06/20/2007	DATE FORWARDED TO EXAMINER			
46	06/14/2007	RESPONSE AFTER NON-FINAL ACTION		246	31
45	06/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	04/16/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	04/16/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	02/28/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
41	02/28/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	01/31/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	02/12/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
38	02/08/2007	FILE MARKED FOUND			
37	01/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
36	10/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	09/06/2006	FILE MARKED LOST			
34	09/01/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
33	09/01/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
32	08/17/2006	CORRESPONDENCE ADDRESS CHANGE			
31	07/11/2006	MAIL SUPPLEMENTAL NON-FINAL ACTION			
30	06/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	06/27/2006	SUPPLEMENTAL NON-FINAL ACTION			
28	06/06/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
27	06/27/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
26	06/06/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
25	08/04/2003	PETITION ENTERED			
24	09/26/2003	FILE MARKED FOUND			
23	09/12/2003	FILE MARKED LOST			
22	06/03/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	05/30/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	07/17/2002	MAIL NON-FINAL REJECTION			

19	07/15/2002	NON-FINAL REJECTION			
18	05/31/2002	DATE FORWARDED TO EXAMINER			
17	05/10/2002	RESPONSE AFTER NON-FINAL ACTION		37	14
16	05/10/2002	NEW OR ADDITIONAL DRAWING FILED			
15	05/10/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	01/03/2002	MAIL NON-FINAL REJECTION			
13	12/31/2001	NON-FINAL REJECTION			
12	10/17/2001	DATE FORWARDED TO EXAMINER			
11	10/10/2001	RESPONSE TO ELECTION / RESTRICTION FILED			
10	08/24/2001	MAIL RESTRICTION REQUIREMENT			
9	08/24/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
8	04/16/2001	PRELIMINARY AMENDMENT			
7	06/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
6.7	03/12/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	05/22/2001	APPLICATION DISPATCHED FROM OIPE			
4	04/24/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/23/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/30/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/12/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 7

BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

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SEP 2 0 2001

OFFICE OF PETITIONS

In re Application of :
Clayton P. Spitz et al. :
Application No. 09/804,674 : DECISION GRANTING
Filed: March 12, 2001 :STATUS UNDER 37 CFR 1.47(a)
For: PURCHASING CARD :
TRANSACTION RISK MODEL :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 31, 2001 (certificate of mailing August 29, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit for preexamination processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

DAVID C. GUERIN
13002 BRAYTON COURT
HOUSTON, TX 77065

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SEP 2 0 2001

OFFICE OF PETITIONS

In re Application of
Clayton P. Spitz; Todd M. Anderson; Thomas F. Latham; David C. Guerin; Ernest J. Arbour, Jr.
Application No. 09/804,674
Filed: March 12, 2001
For: PURCHASING CARD TRANSACTION RISK MODEL

Dear Mr. Guerin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

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Paper No. 18

FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON MA 02110

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Terry B. Storm et al :
Application No. 09/804,717 : DECISION ON PETITION
Filed: March 12, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01948-051003 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/304,755, filed May 4, 1999.

The petition is DISMISSED.

Any request for reconsideration must be filed within TWO MONTHS from the mail date of this decision. Note 37 CFR 1.181(f).

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

[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).

> (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 reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(iii) (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 March 11, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the above-noted, prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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 de Seversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition 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
Mail Stop 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2]Note 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of
Terry B. Storm et al
Application No. 09/804,717
Filed: March 12, 2001
Attorney Docket No. 01948-051003

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on May 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/304,755, filed May 4, 1999, 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;[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.

The instant pending application was filed on March 12, 2001, 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).

---

[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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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 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 inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1632 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/304,755, filed May 4, 1999.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

Ference & Associates
400 Broad Street
Pittsburgh, PA 15143

In re application of
Kannan Srinivasan, et al
Application No. 09/804,728 :
Filed: March 13, 2001 :
For: METHOD AND APPARATUS FOR INTERNET CUSTOMER RETENTION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 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 in the above-identified application is not approved because the request lacks conditions A) and B) above.

As to condition A), there is no evidence in the file that the attorney signing the request ever actually had power in this case.

As to condition B), the reason for withdrawal is unacceptable under 37 CFR 10.40.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dcg: 12/1/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE
OCT 27 2004
TECHNOLOGY CENTER 3600

Cohen & Grigsby, P.C.
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222

In re application of
Kannan Srinivasan et al.
Application No. 09/804,729 : DECISION ON REQUEST
Filed: March 13, 2001 : FOR WITHDRAWAL OF
For: METHOD AND SYSTEM FOR DYNAMIC PRICING : ATTORNEY

This is a decision on the request filed on April 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), there was no reason given. 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
(703) 605-0586 (facsimile)

KJD/slb: 10/12/04

OIPE JC50 NOV 04 2004 PATENT & TRADEMARK OFFICE

11-05-04

IFW 3629

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)	Docket No. 01-168

Applicant: Kannan Srinivasan and Michael I. Shamos

Serial No.	Filing Date	Patent No.	Issue Date
09/804,729	March 13 2001	unassigned	unassigned

METHOD AND SYSTEM FOR DYNAMIC PRICING

I hereby certify that the following documents:

1 Response to Decision on Request for Withdrawal of Authorized Representative

1 Return Receipt Postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to:

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

FEB - 3 2005
APPROVED

EXPRESS MAIL LABEL NO EV 465895065

Dated: November 4, 2004

Donna Brutscher

OIPE JC50 NOV 04 2004 PATENT & TRADEMARK OFFICE

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kannan Srinivasan and Michael I. Shamos	)	
U.S. Serial No.: 09/804,729	)	**METHOD AND SYSTEM FOR DYNAMIC PRICING**
Filed: March 13, 2001	)	
Docket No.: 01-168	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 4, 2004

RESPONSE TO DECISION ON REQUEST FOR WITHDRAWAL OF AUTHORIZED REPRESENTATIVE

This is in response to a communication mailed on October 27, 2004.

On April 14, 2004, the undersigned filed a Withdrawal of Authorized Representative pursuant to 37 C.F.R. § 1.36, for Thomas C. Wettach, Frederick L. Tolhurst, Gerald J. Iwanejko, Jr. and Christine (Wettach) Trebilcock of Cohen & Grigsby, P.C. in above-captioned patent application and to direct any future correspondence concerning this patent application to Intellions, Inc. c/o Sanjay Chopra at the following address:

Intellions, Inc.
c/o Mr. Sanjay Chopra
3017 East Ridge Drive
Gibsonia, PA 15044

The communication mailed on October 27, 2004 stated that the request to withdraw as authorized representative was not accepted because it lacked a condition for the request under 37 CFR 10.40(b)(1)-(4) or (c)(1)-(6).

The reason for our request to withdraw as authorized representative is that our client, the applicants of the above patent application:

(vi) has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.

We appreciate your favorable consideration.

Respectfully submitted,

By _____

Christine W. Trebilcock
PTO Registration No. 41,373
Cohen & Grigsby, P.C.
11 Stanwix Street, 15th Floor
Pittsburgh, PA 15222
(412) 297-4900

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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JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

Intellions, Inc.
C/O Mr Sajay Chopra
3017 East Ridge Drive
Gibsonia, PA 15044

In re application of
Kannan Srinivasan, et al
Application No. 09/804,735 : DECISION ON REQUEST
Filed: March 13, 2001 : FOR WITHDRAWAL OF
For: METHOD AND APPARATUS FOR : ATTORNEY
DETERMINING THE EFFECTIVENESS
OF INTERNET ADVERTISING

This is a decision on the request filed on April 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 in the above-identified application is not approved because the request lacks conditions A) and B) above.

As to condition A), there is no evidence in the file that the attorney signing the request ever actually had power in this case.

As to condition B), the reason for withdrawal is unacceptable under 37 CFR 10.40.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dcg: 12/1/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2007

TO SPE OF : ART UNIT 2611 Jayanti K. Patel

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/804,744 Patent No.: 7106821 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**.

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

David Payne

SPE

2611

Art Unit

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)
6,500,665	2002-12-31	09/804,770	2001-03-13	45349

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	/Dale J. Ream/	Date (YYYY-MM-DD)	2007-08-02
Name	Dale J. Ream	Registration Number	45798

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6500665
Issue Date: December 31,2002
Application No. 09804770
Filed: March 13,2001
Attorney Docket No. 45349

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 2,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 2,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

LATHROP & GAGE LC
2345 GRAND BOULEVARD
SUITE 2800
KANSAS CITY, MO 64108

COPY MAILED

MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of
Andre P. Guillory
Application No. 09/804,772
Filed: March 13, 2001
Attorney Docket No. 390073

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 25, 2002, to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of prior-filed provisional Application No. 60/189,160, filed March 14, 2000.

The petition is **granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5) 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) 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 USC 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 13, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/189,160, which was filed on March 14, 2000, and for which priority is claimed. A reference to the prior provisional application has been included as an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 USC 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 USC 119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/189,160 is granted as of the date of filing the petition.

A corrected filing receipt which includes the priority claim to provisional Application No. 60/189,160, filed March 14, 2000, and the revised projected publication date of June 20, 2002 for the instant application 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 AU 2632 for processing the amendment filed February 25, 2002 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional application, Application No. 60/189,160, filed on March 14, 2000

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/2006

TO SPE OF : ART UNIT 2800 (2872)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,002,744

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to delete data in item (63) and col. 1, line 8, as req. in C of C?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

THE OATH/DECLARATION OF RECORD INCLUDES THESE PATENTS AS CONTINUATION IN PARTS. IT IS IMPROPER TO REMOVE THIS INFORMATION FROM THE INSTANT CASE VIA CERTIFICATE OF CORRECTION AS IT CREATES NEW ISSUES/SCOPE AND WAS RELIED UPON DURING THE EXAMINATION. SEE MPEP 201.11.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE 2872 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/2006

TO SPE OF : ART UNIT 2800 (2872)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,002,744

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to delete data in item (63) and col. 1, line 8, as req. in C of C?

Ernest C. White, LIE (703) 308-9390x122
Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

BASED ON APPLICANT'S AMENDMENT, (12/5/02) THE CHANGES ARE ACCEPTABLE

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE — 11/16/06 — 2872 Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **7,002,744**
DATED : **February 21, 2006**
INVENTOR(S) : **Evans 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:

On the cover page, under Related U.S. Application Data, at Section [63], please delete "Continuation-in-part of application No. 09/569,479, filed on May 12, 2000, now Pat. No. 6,432,327, and a continuation-in-part of application No. 09/567,711, filed on May 10, 2000, now Pat No. 6,413,641, and a continuation-in-part of application No. 09/475,424, filed on Dec. 29, 1999, now Pat. No. 6,220,703, and a continuation-in-part of application No. 09/447,445, filed on Nov. 22, 1999, now Pat. No. 6,391,231."

At column 1, line 8, please delete "This is a continuation-in-part of U.S. patent application Ser. No. 09/569,479 filed May 12, 2000; Ser. No. 09/567,711 filed May 10, 2000; Ser. No. 09/475,424 now U.S. Pat. No. 6,220,703 filed Dec. 29, 1999; and Ser. No. 09/447,445 filed Nov. 22, 1999, each of which is hereby incorporated by reference as if fully set forth herein."

MAILING ADDRESS OF SENDER (Please do not use customer number

James R. Brueggemann, Esquire
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
(213) 620-1780

PATENT NO. 7,002,744

No. of additional copies

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ALEXANDRIA, VA 22313-1450
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Paper No.

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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JAN 05 2007

OFFICE OF PETITIONS

In re Patent No. 7,106,299	:	
Shoji Suzuki	:	DECISION ON REQUEST
Issue Date: September 12, 2006	:	FOR
Application No. 09/804,812	:	RECONSIDERATION OF
Filed: March 13, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281/3923	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 31, 2006. Patentees request that the patent term adjustment as indicated by the PAIR PTA adjustment history (and on the face of the patent) be corrected from one hundred seventy-eight (178) days to one thousand ninety-one (1091) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 12, 2006, the above-identified application matured into U.S. Patent No. 7,106,299. The instant request for reconsideration filed October 31, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 178 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1091 days on the basis

that the patent issued 3 years and 913 days after the date on which the application was filed.

It is agreed that the instant patent issued 3 years and 913 days after its filing date. However, pursuant to 35 U.S.C. 154(B)(i), § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a RCE was filed on August 15, 2003. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended August 15, 2003. Accordingly, the period of adjustment under § 1.702(b) is 0 days.

In view thereof, the patent properly issued with a patent term adjustment of 178 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to 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. 9

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of	
Mark Rom	
Application No. 09/804,835	DECISION ACCORDING STATUS
Filed: March 13, 2001	UNDER 37 CFR 1.47(b)
For: DETERMINING FORM IDENTIFICATION THROUGH THE SPATIAL RELATIONSHIP OF INPUT DATE	

This is in response to the "Petition Under 37 CFR 1.47(b)," filed January 25, 2002 and May 3, 2002.

The petition is granted.

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.

Petitioner has demonstrated 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, petitioner 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. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

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.

An additonal one-month extension of time fee ($260) was charged to Deposit Account No. 11-1410, as authorized by petitioner.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703)306-5685.

This application is being forwarded to Initial Patent Examination Division for further preexamination processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MARK ROM
1580 SOUTH JUNIPER STREET #19
ESCONDIDO, CA 92025

COPY MAILED

MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of
Mark Rom
Application No. 09/804,835
Filed: March 13, 2001
For: DETERMINING FORM IDENTIFICATION THROUGH THE SPATIAL RELATIONSHIP OF INPUT DATA

Dear Mr. Rom:

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 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 the Deputy Commissioner
for Patent Examination Policy

cc: KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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

MARTIN M ZOLTICK
ZOLTICK TECHNOLOGY LAW GROUP
21515 RIDGETOP CIRCLE, SUITE 200
LOUDOUN TECH CENTER
STERLING, VA 20166

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JUL 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Erwin Aguayo et al.
Application No. 09/804,853
Filed: March 13, 2001
For: VIDEO DATA MANAGEMENT, TRANSMISSION, AND CONTROL SYSTEM AND METHOD EMPLOYING DISTRIBUTED VIDEO SEGMENTS MICROCASTING

: DECISION ACCORDING
: STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 29, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Initial Patent Examination Division for preexamination processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

ANGADBIR SINGH SALWAN
10701 BALANTRE LANE
POTOMAC, MD 20854

COPY MAILED

JUL 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Aguayo and Salwan
Application No. 09/804,853
Filed: March 13, 2001
For: VIDEO DATA MANAGEMENT, TRANSMISSION, AND CONTROL SYSTEM AND METHOD EMPLOYING DISTRIBUTED VIDEO SEGMENTS MICROCASTING

Dear Mr. Salwan:

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:
MARTIN M ZOLTICK
ZOLTICK TECHNOLOGY LAW GROUP
21515 RIDGETOP CIRCLE, SUITE 200
LOUDOUN TECH CENTER
STERLING, VA 20166

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ALEXANDRIA, VA 22313-1450
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Paper No. 15

Robert F. Clark
Osram Sylvania Inc.
100 Endicott Street
Danvers, MA 01923

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OCT 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Leonid P. Dorfman et al. :
Application No. 09/804,876 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 00-2-013 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 1, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed January 2, 2003, 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 April 3, 2003.

The application file is being forwarded to Technology Center AU 1742 for further processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 1-18-06

In re application of	:	
Leonid Dorfman et al.	:	DECISION ON
Serial No. 09/804,876	:	PETITION
Filed: March 13, 2001	:	
For: Mo-Cu COMPOSITE POWDER	:	

This is a response to the PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed September 07, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed August 24, 2004, be withdrawn since the applicant did not receive the Office letter mailed December 30, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, MPEP 711.03(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 December 13, 2003. The evidence provided includes a statement by the petitioner that the Office letter mailed December 13, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed December 13, 2003 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed December 13, 2003would have been posted had it been timely received.

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 December 13, 2003 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline K. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert F. Clark
Osram Sylvania Inc.
100 Endicott St.
Danvers, MA 01923

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,877	03/13/2001	Yumin Zhang	SAR 14211	1828

28166 7590 04/29/2004

MOSER, PATTERSON & SHERIDAN, LLP
/SARNOFF CORPORATION
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER	
CHASE, SHELLY A	
ART UNIT	**PAPER NUMBER**
2133	6

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

In re Application of
Yumin Zhang, et al.
Serial No. 09/804,877 : **DECISION**
Filed: 03/13/2001 : **ON**
For: **Method And Apparatus For Adaptively coding** : **PETITION**
Coding Data Signal

This is a decision on the petition for correction of inventorship. The petition filed on September 12, 2001 is **GRANTED**.

The petition filed on September 12, 2001 requests correction of inventorship under 37 CFR 1.48(a) to add Robert C. Malkemes and Charles Reed.
The new inventorship shall be: Yumin Zhang, Robert C. Malkemes, and Charles Reed.

Albert DeCady
SPE, Art Unit 2133

ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

John V. Silverio
Attorney
Moser, Patterson & Sheridan, LLP
595 Shrewsbury Avenue, First Floor
Shrewsbury, New Jersey 07702

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 26

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Director's Office
Office of Patent Publication

MCGUIRE WOODS
1750 TYSONS BOULEVARD
SUITE 1800
MCLEAN, VA 22102

In re Application of	:	
Shulan Tan	:	
Application No. 09/804,878	:	**DECISION ON PETITION**
Filed: March 13, 2001	:	
Attorney's Docket No. 07840001AA	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR § 1.181(a), received in the United States Patent and Trademark Office (USPTO) on March 16, 2004 and resubmitted on June 17, 2005.

The petition is **GRANTED.**

The application was held abandoned for applicant's failure to timely file a proper reply to the Office letter — Notice To File Corrected Application Papers (NTFCAP) — mailed on October 8, 2003.

Petitioner has submitted a copy of the Response To File Corrected Application Papers, Supplemental Response To Notice To File Corrected Application Papers, Amendment to Specifications, and a copy of the returned postcard, which acknowledges receipt of the afore-mentioned items on October, 20, 2003, as evidenced by the "Office Date" stamp receipt thereon. However, MPEP 503 states the following:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

In view of the above the holding of abandonment is hereby withdrawn.

The application will be forwarded to Examiner, Kimberly Lockett, Art Unit 2837 to enter the Amendment To Specifications.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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ALEXANDRIA, VA 22313-1450
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Paper No. 21

Patent Department
Choate Hall & Stewart
Exchange Place
Boston, MA 02109

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MAR 0 3 2004
OFFICE OF PETITIONS

In re Application of
Bevers et al.
Application No. 09/804,893
Filed: March 13, 2001
Attorney Docket No. 2005491-0001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 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 March 28,2003, 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 June 29, 2003.

The application file is being forwarded to Technology Center AU 1639 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 8

DAVID N. FOGG
FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of
Reshef et al.
Application No. 09/804,929
Filed: March 13, 2001
Attorney Docket No. 100.006US01

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 24, 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 after having been presented with the application papers. Specifically, the declaration of William Weisel attest a copy of the application was mailed via registered mail to the non-signing inventor. The non-signing inventor's failure to respond to the application sufficiently establishes that the inventor refuses 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.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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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AMIR COHEN
P.O. BOX 457
KFAR HESS, ISRAEL

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of
Reshef et al.
Application No.09/804,929
Filed: March 13, 2001
Atty. Dkt. No.:100.006US01
For: ATM LINKED LIST BUFFER SYSTEM

LETTER

Dear Mr. Cohen:

You Amir Cohen 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 inventors.

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).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: DAVID N. FOGG
FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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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SONNENSCHEIN NATH & ROSENTHAL, LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of
Koby Reshef et al.
Application No. 09/804,929
Filed: March 13, 2001
Attorney Docket No. 100.006US01

ON PETITION

This is a decision on the petition, filed February 16, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed August 24, 2004. A response in the form of an amendment was filed January 28, 2005 with a two month extension of time request. On April 15, 2005 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the April 15, 2005 Notice. Thus the application became abandoned April 16, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A supplemental amendment is submitted with the petition to revive. This matter is being referred to Technology Center 2616 for processing of the amendment.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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

Fogg, Slifer & Polglaze, P.A.
P.O. Box 581009
Minneapolis MN 55458-1009

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DEC 1 0 2002

OFFICE OF PETITIONS

In re Application of
Parchak, Menachemi, and Laster
Application No.: 09/804,930
Filed: March 13, 2001
Attorney Docket No: 100.005US01
For: IMPLEMENTING PRIORITY FOR MULTIPLE PHYSICAL LAYER DEVICES AT A UTOPIA INTERFACE

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed with the Patent and Trademark Office on March 13, 2001, and received by the Office of Petitions on November 15, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The instant petition was filed with the above-cited application on March 3, 2001. In said petition, petitioner established that a copy of the above-cited patent application was mailed to inventor Menachemi at his last known address requesting that he execute the declaration, but no response was received. Inventor Menachemi's failure to respond is deemed a constructive refusal to join the prosecution of the application. This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Zvika Menachemi
31/5 Hahal St.
Modi'in, ISRAEL
Israel

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DEC 1 0 2002

OFFICE OF PETITIONS

In re Application of
Parchak, Menachemi, and Laster
Application No.09/804,930
Filed: March 13, 2001
Attorney Docket Number: 100.005US01
For: IMPLEMENTING PRIORITY FOR MULTIPLE PHYSICAL LAYER DEVICES AT A UTOPIA INTERFACE

LETTER

Dear Mr. Menachemi:

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 the a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Fogg, Slifer & Polglaze, PA
PO Box 581009
Minneapolis, MN 55458-1009

UNITED STATES 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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAIL

DEC 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Marvin A. Leedom, et al. :
Application No. 09/804,978 :
Filed: March 13, 2003 :
For: DISPOSABLE MODULAR HEARING AID :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed November 3, 2003 (paper No. 9) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Marvin Leedom, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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

THOMAS J KOWALSKI
C/O FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

COPY MAILED

MAY 14 2002

OFFICE OF PETITIONS

In re Application of
Andersen, et al.
Application No. 09/804,980
Filed: March 13, 2001
Attorney Docket No. 670001-2002.4

DECISION ON PETITION

This is a decision on the petition filed March 13, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 13, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit: (1) an executed oath or declaration; (2) the filing fees; (3) substitute drawings; (4) a copy of the "Sequence Listing" in computer readable form as required by 37 CFR 1.821(e), and (5) a statement that the contents of the sequence listing information recorded in computer readable format is identical to the written sequence listing. On June 13, 2001, petitioner submitted an executed declaration and the filing fees, together with the surcharge for their late filing. However, as petitioner did not submit items (3),(4), or (5) above, the application became abandoned on June 14, 2001. A Notice of Incomplete Reply was mailed on December 28, 2001. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted the required items as set forth in the Notice of Incomplete Reply, paid the petition fee, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
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. 13

Leo R. Reynolds
MAMILTON, BROOK, SMITH &
REYNOLDS, P.C.
530 Virginia Road
P.O. BOX 9133
Concord, MA 01742-9133

MAIL

JAN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Marvin A. Leedom :
Application No. 09/804,983 :
Filed: March 13, 2001 :
For: HEARING AID WITH A FLEXIBLE SHELL :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed November 05, 2003 (paper No. 12) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Marvin A. Leedom, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61 STREET
NEW YORK , NY 10023

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of
Agrawal et al.
Application No. 09/804,993
Filed: March 13, 2001
Attorney Docket No. U 013307-3
Title: PROCESS FOR THE FIXED BED SWEETENING OF PETROLEUM DISTILLATES USING HALOGENATED METAL PHTHALOCYANINE AS A CATALYST

DECISION ON PETITION

This is in response to the petition under 37 CFR §1.47(a)[1], filed September 21, 2001.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on March 13, 2001. On April 30, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63, a surcharge for its late filing, and the basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee). To make timely this reply, a three-month extension of time has also been submitted. Unfortunately, the check which paid

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 extension of time, the filing fee, the petition fee, and the surcharge for filing a late oath or declaration has bounced. Consequently, these fees have been charged to counsel's Deposit Account, as authorized. Accompanying the petition was a declaration executed by nine of the twelve inventors, as well as a statement by the petitioner that "the non-signing inventors that are abroad and not likely to return back to India before the due date."[2]

On October 15, 2001, a fully executed declaration was filed, obviating the need for this petition. As such, this petition is dismissed as moot.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding 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

2 The Petitions Attorney assumes that the petitioner meant to write "return back *from* India", as petitioner's law firm is located in New York City.

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

LADAS & PARRY
26 WEST 61 STREET
NEW YORK , NY 10023

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of
Puri et al.
Application No. 09/804,994
Filed: March 13, 2001
Attorney Docket No. U 013305-7
Title: PROCESS FOR THE PREPARATION OF A CATALYST USEFUL FOR LIQUID-LIQUID SWEETENING LPG AND LIGHT PETROLEUM DISTILLATES

DECISION ON PETITION

This is in response to the petition under 37 CFR §1.47(a)[1], filed September 20, 2001.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on March 13, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63, a surcharge for its late filing, the basic filing fee, and the fee for additional claims. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee)[2]. To make timely this reply, a three-month extension of time has also been submitted. Accompanying the petition was a

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 fforts 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 executed by seven of the ten inventors, as well as a statement by the petitioner that "the non-signing inventors that are abroad and not likely to return back to India before the due date."[3]

On October 15, 2001, a fully executed declaration was filed, obviating the need for this petition. As such, this petition is dismissed as moot.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding 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

2 The petitioner has forgotten to submit the $270 fee for additional claims. This has been charged to petitioner's Deposit Account, as authorized in the petition.
3 The Petitions Attorney assumes that the petitioner meant to write "return back *from* India", as petitioner's law firm is located in New York City.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 15

BEST AVAILABLE COPY

Ladas & Parry
26 West 61st Street
New York, NY 10023

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JAN 12 2004
OFFICE OF PETITIONS

In re Application of :
Som Nath Puri et al. :
Application No. 09/804,994 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. U013305-7 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 24, 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 October 25, 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 1755 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

DORSEY & WHITNEY LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

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MAY 15 2002

OFFICE OF PETITIONS

In re Application of
Lamar, et al.
Application No. 09/805,067
Filed: March 12, 2001
Attorney Docket No. 10029.02

DECISION ON PETITION

This is a decision on the petition filed March 20, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 20, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and surcharge for its late filing) and substitute drawings. On October 19, 2001, petitioner submitted an executed declaration together with the surcharge for its late filing.[1] However, as petitioner did not submit substitute drawings, the above-identified application became abandoned on October 21, 2001. A Notice of Incomplete Reply was mailed on January 9, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted substitute drawings, paid the petition fee, and made the proper statement of unintentional delay.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The declaration was timely because petitioner obtained a four month extension of time.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 8

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Frankenbach, et al. : ON PETITION
Application No. 09/805,099 :
Filed: March 13, 2001 :
Attorney Docket No. 8244 :
For: METHODS FOR IMPROVING THE PERFORMANCE OF FABRIC WRINKLE CONTROL COMPOSITIONS

This decision addresses two petitions: (1) the petition under 37 CFR 1.47(a) and (2) the petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on May 14, 2004 (certificate of mailing date May 10, 2004).

The petition under 37 CFR 1.47(a) is **dismissed**.

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 1.47(a) and 1.137(b)." Petitioners are advised that this is not a final agency decision.

On May 14, 2001, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit an executed oath or declaration and a $130.00 surcharge under 37 CFR 1.16(e) for its late filing. The Office has no record of receiving a timely reply. Therefore, the application became abandoned on July 15, 2001. A Notice of Abandonment was mailed on October 28, 2003.

PETITION UNDER 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition and supporting exhibits establish that Carlos H. Behrens, the non-signing inventor, was successfully mailed a copy of the declaration for patent application along with a letter requesting his signature thereon.. The petition does not establish that a complete copy of the application was mailed to Mr. Behrens' last known address.

Mr. Behrens must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. After all, Mr. Behrens cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

When petitioners can show that Mr. Behrens was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

If there is an express oral refusal, that fact along with the time and place of the refusal must be stated in a statement of facts. If there is a written refusal, a copy of the refusal must be submitted. Finding refusal by conduct is possible. All facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

The petition under 37 CFR 1.47(a) is dismissed.

Regarding fees, pursuant to petitioners' authorization, deposit account no. 16-2480 will be charged the required $130.00 Rule 47 petition fee and the $130.00 surcharge for filing a late declaration.

PETITION UNDER 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;

(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).

This petition lacks item (1) above. The required reply is an acceptable declaration -- whether fully executed, or partially executed with Rule 47 status accorded to the application. Since the petition under 37 CFR 1.47(a) is dismissed, petitioners have not submitted the required reply to revive the application.

The petition under 37 CFR 1.137(b) is dismissed.

Pursuant to petitioners' authorization, the $1,330 fee associated with filing a petition to revive under 37 CFR 1.137(b) was charged to deposit account no. 16-2480 on May 17, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand:
Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of :
Frankenbach, et al. : ON PETITION
Application No. 09/805,099 :
Filed: March 13, 2001 :
Attorney Docket No. 8244 :
For: METHODS FOR IMPROVING THE PERFORMANCE OF FABRIC WRINKLE CONTROL COMPOSITIONS

This decision addresses two reconsideration petitions: (1) the petition under 37 CFR 1.47(a) and (2) the petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on September 29, 2004 via facsimile.

The petition under 37 CFR 1.47(a) is **granted**.

The petition under 37 CFR 1.137(b) is **granted**.

On May 14, 2001, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit an executed oath or declaration and a $130.00 surcharge under 37 CFR 1.16(e) for its late filing. The Office has no record of receiving a timely reply. Therefore, the application became abandoned on July 15, 2001. A Notice of Abandonment was mailed on October 28, 2003. Applicants' petition under 37 CFR 1.47(a) and petition under 37 CFR 1.137(b), filed May 14, 2004 (certificate of mailing date May 10, 2004), were dismissed on June 29, 2004 for, respectively, failure to show the non-signing inventor, Carlos Henrique Behrens, refused to join in the filing of the application and failure to submit an acceptable reply.

PETITION UNDER 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

Petitioners have shown that the non-signing inventor, Carlos Henrique Behrens, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Bridget M. Harris establishes that the inventor was successfully mailed the application papers, including the specification and claims, but failed to respond to the request that he sign the enclosed declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

PETITION UNDER 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;

(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).

By obtaining Rule 47 status for the application, petitioners have now met all of the above-listed requirements.

The petition under 37 CFR 1.137(b) is granted.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

OIPE JC174
JUN 28 2002
PATENT & TRADEMARK OFFICE

108075-00048 DHG 1-3

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

Received
DEC 26 2001
Arent Fox
Docketing

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington DC 20036-533

In re Application of :
Kazuhiro Tomita :
Application No. 09/805,103 : DECISION GRANTING PETITION
Filed: March 14, 2001 :
Attorney Docket No. 108075-00048 :
Title: DIFFERENTIAL AMPLIFIER HAVING IMPROVED BALANCE AND LINEARITY :

COPY MAILED
DEC 17 2001
OFFICE OF PETITIONS

RECEIVED
JUL 1 2002
TC 2800 MAIL ROOM

This is a decision on the petition filed May 2, 2001, requesting that the above-identified application be accorded a filing date of March 14, 2001, with drawings of Figures 1-9 as a part of the original disclosure of the application. Receipt is also acknowledged of the request for a corrected filing receipt filed on September 25, 2001.

The application was filed on March 14, 2001. However, on April 20, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicant's invention and stating that the filing date of the application would be the date of receipt of the drawings. It is noted that the specification describes drawings containing Figures 1-9.

In response, 5 sheets of the drawings containing Figures 1-9 were filed on May 2, 2001, together with the present petition. The petition alleges that 5 sheets of drawings containing Figures 1-9 were filed on March 14, 2001. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the Office of "drawings" on March 14, 2001.

Applicant's postcard receipt is prima facie evidence that drawings were filed on March 14, 2001, but no such drawings are

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DOCKETING BY PK
DATE 12/28/01

present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that the 5 sheets of drawings shown to have been filed by applicant's counsel were received on March 14, 2001, and later misplaced in the Office.

The petition is granted.

The "Notice" mailed April 20, 2001, is hereby withdrawn.

Since the original drawings cannot be located in the Office, the copy supplied on May 2, 2001, will be used for processing and examination purposes.

In the future, applicant is advised that a postcard receipt should identify the number of pages of specification, drawings and oath/declaration being filed. Failure to do so may result in the loss of a filing date.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing receipt to show the filing date as March 14, 2001, and to delete the duplicate references to the foreign priority application listed on the filing receipt.

Any inquiries related 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. 7

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington DC 20036-533

In re Application of	:	
Kazuhiro Tomita	:	
Application No. 09/805,103	:	DECISION GRANTING PETITION
Filed: March 14, 2001	:	
Attorney Docket No. 108075-00048	:	COPY MAILED
Title: DIFFERENTIAL AMPLIFIER HAVING IMPROVED BALANCE AND LINEARITY	:	DEC 17 2001
	:	OFFICE OF PETITIONS

This is a decision on the petition filed May 2, 2001, requesting that the above-identified application be accorded a filing date of March 14, 2001, with drawings of Figures 1-9 as a part of the original disclosure of the application. Receipt is also acknowledged of the request for a corrected filing receipt filed on September 25, 2001.

The application was filed on March 14, 2001. However, on April 20, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicant's invention and stating that the filing date of the application would be the date of receipt of the drawings. It is noted that the specification describes drawings containing Figures 1-9.

In response, 5 sheets of the drawings containing Figures 1-9 were filed on May 2, 2001, together with the present petition. The petition alleges that 5 sheets of drawings containing Figures 1-9 were filed on March 14, 2001. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the Office of "drawings" on March 14, 2001.

Applicant's postcard receipt is prima facie evidence that drawings were filed on March 14, 2001, but no such drawings are

present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that the 5 sheets of drawings shown to have been filed by applicant's counsel were received on March 14, 2001, and later misplaced in the Office.

The petition is granted.

The "Notice" mailed April 20, 2001, is hereby withdrawn.

Since the original drawings cannot be located in the Office, the copy supplied on May 2, 2001, will be used for processing and examination purposes.

In the future, applicant is advised that a postcard receipt should identify the number of pages of specification, drawings and oath/declaration being filed. Failure to do so may result in the loss of a filing date.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing receipt to show the filing date as March 14, 2001, and to delete the duplicate references to the foreign priority application listed on the filing receipt.

Any inquiries related 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 31, 2003

Chandrakant C. Shroff
Parent Patent Research, Inc.
600 N. Picket Street
Alexandria, VA 22304

In re application of:
Rex A. Hoover et al DECISION ON PETITION
Serial No.: 09/805,142
Filed: March 14, 2001
For: FORENSIC MICROSCOPY SYSTEM

This is a decision on the petition received on March 19, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed May 14, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 15, 2001. The notice of abandonment was mailed March 10, 2003.

On March 19, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on May 29, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on May 29, 2001.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2621.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006--1021

In re Application of :
Suetsugu et al. :
Application No. 09/805,153 : ON PETITION
Filed: March 14, 2001 :
Attorney Docket No. 2001_0307A :

This is a decision on the petition filed October 12, 2001, to accord the above-identified application a filing date of March 14, 2001, instead of July 13, 2001.

The petition is **granted.**

The application was filed on March 14, 2001, and was given a filing date of March 14, 2001. A Notice of Missing Parts was mailed on May 30, 2001. On July 13, 2001, petitioner filed a response to the Notice of Missing Parts. Apparently, due to an error by an employee of the Patent and Trademark Office, the filing date was incorrectly changed to July 13, 2001, after the response to the Notice was received. The correct filing date for the application is March 14, 2001.

The Office apologizes for any inconvenience caused to applicants.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 14, 2001. The file will subsequently be forwarded to Technology Center 3700, Art Unit 3729, for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 1 1 2001

OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006--1021

In re Application of :
Suetsugu et al. :
Application No. 09/805,153 : ON PETITION
Filed: March 14, 2001 :
Attorney Docket No. 2001_0307A :

This is a decision on the petition filed October 12, 2001, to accord the above-identified application a filing date of March 14, 2001, instead of July 13, 2001.

The petition is **granted.**

The application was filed on March 14, 2001, and was given a filing date of March 14, 2001. A Notice of Missing Parts was mailed on May 30, 2001. On July 13, 2001, petitioner filed a response to the Notice of Missing Parts. Apparently, due to an error by an employee of the Patent and Trademark Office, the filing date was incorrectly changed to July 13, 2001, after the response to the Notice was received. The correct filing date for the application is March 14, 2001.

The Office apologizes for any inconvenience caused to applicants.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 14, 2001. The file will subsequently be forwarded to Technology Center 3700, Art Unit 3729, for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

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WENDEROTH, LIND & PONACK

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LAW OFFICES OF BRIAN S. STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

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NOV 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Robert J. Tuttle :
Application No. 09/805,187 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. PC-738-CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 7, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 27, 2005. A Notice of Abandonment was mailed on February 27, 2006.

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 $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $30 for ten (10) advance soft copies filed on March 7, 2006.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

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JAN 27 2006

TECHNOLOGY CENTER 2100

In re Application of: Moore, et al.
Application No. 09/805,200
Attorney Docket No. BU9-98-050DIV1
Filed: March 14, 2001
For: MICROPROCESSOR INCLUDING CONTROLLER FOR REDUCED POWER CONSUMPTION AND METHOD THEREFOR

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is in response to the petition filed on October 19, 2005, under 37 CFR §1.181, to reinstate the Appeal in the above-referenced application.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed October 19, 2005 includes elements (1) and (2) above.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

On October 13, 2004, the Examiner issued a Final Office action, rejecting all pending claims.

On December 13, 2004, an amendment after Final rejection (37 CFR §1.116) was filed.

On January 4, 2005, an Advisory action was mailed.

On February 14, 2005, Applicant filed a Notice of Appeal.

On April 14, 2005, Appellant filed an Appeal Brief.

On July 19, 2005, the Examiner REOPENED prosecution and a new Non-Final Office action was mailed, introducing a new ground of rejection with respect to claims 6 and 30.

On October 19, 2005, Appellant filed a supplemental Appeal Brief; along with the instant petition under 37 CFR §1.181 requesting reinstatement of the appeal.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests the following relief: to reinstate the Appeal in the above-referenced application.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Highlighting is added to draw attention to critical phrases.

§ 1.193 Examiner's answer and reply brief.
(b)
(2) Where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, appellant must exercise one of the following two options to avoid abandonment of the application:
(i) File a reply under § 1.111, if the Office action is not final, or a reply under § 1.113, if the Office action is final; or
(ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (§ § 1.130, 1.131 or 1.132) or other evidence are permitted.

706.07(e) Withdrawal of Final Rejection, General
When a final rejection is withdrawn, all amendments filed after the final rejection are ordinarily entered.

With respect to item 1 above, Petitioner's request for reinstatement of the Appeal is proper in accordance with 37 CFR §1.193(b)(2)(ii). Note, in addition, see paragraphs 2 and 3 of the Non-Final Office action mailed July 19, 2005. In addition, upon withdrawal of the Final rejection by the Examiner in the Office action mailed July 19, 2005, the amendment filed under 37 CFR §1.116 received on December 13, 2004 was entitled to entry in accordance with MPEP 706.07(e).

DECISION

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the technology support staff to **PROCESS** the supplemental Appeal Brief and to place in the appropriate appeal status. Note, the appropriate fees have been paid since the Notice of Appeal fee was previously paid on February 28, 2005 and the Appeal Brief fee was previously paid on May 4, 2005. Thereafter, the application will be forwarded to the Examiner for appropriate action and consideration of the supplemental Appeal Brief.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,237	03/14/2001	Satoshi Ichimura	NIP-230	2126

24956 7590 05/07/2004

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER	
BERMAN, JACK I	
ART UNIT	**PAPER NUMBER**
2881	

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/805,237			

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due.
The issue fee by 37 CFR 1.18 is $_____ . The publication fee, if required, by 37 CFR 1.18(d) is $_____.
- ☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Lee

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 14

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH, PA 15143

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JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Kannan Srinivasan et al :
Application No. 09/805,310 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 696.004 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 2685.

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
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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OFFICE OF PETITIONS

In re Application of :
Gordon :
Application No. 09/805,313 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. GOR05 P-300A :
For: CLEANING ARTICLES

This is a decision on the petition under 37 CFR 1.181, filed December 27, 2005 (certificate of mailing date December 12, 200), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

This application was held abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision on Appeal within two months of the April 25, 2005 decision. The Office contended this application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on November 14, 2005.

Petitioner argues that the November 14, 2005 Notice of Abandonment was mailed prematurely and in error. The Notice of Abandonment stated that the application became abandoned for failure to seek court review within two months of the April 25, 2005 Board of Patent Appeals and Interferences decision. It is noted that there are no allowed claims in the application.

Instead of seeking court review, applicant submitted a Request for Rehearing of the decision on June 24, 2005, which was within two months of the Board's April 25, 2005 decision.

On October 13, 2005, the Board rendered a decision on the Request for Rehearing.

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. 37 CFR 1.304(a)(1)

Therefore, because court review was not sought, the application became abandoned two months after the Board's October 13, 2005 decision on the Request for Rehearing.

The petition is dismissed because, although the November 14, 2005 Notice of Abandonment was mailed prematurely and contained erroneous information, the application is nevertheless abandoned. However, the date of abandonment is important because continuation application no. 11/299,639 was filed on December 12, 2005. The date of abandonment of application no. 09/805,313 is December 14, 2005.

No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be forwarded to Files Repository.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

NOV 15 2002

Paper No. 10

In re Application of
William D. Budinger *et al*
Application No. 09/805,328
Filed: March 13, 2001
Attorney Docket No. I56US

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on October 4, 2002 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 30, 2002. No fee is required for the petition.

The petition is granted.

Petitioners allege that a timely reply to the Office letter in question was in fact filed. This allegation is supported in a manner which satisfies the requirements of 37 CFR 1.8(b). Therefore, petitioners have established that this application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on March 4, 2002, certificate of mailing date February 21, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Rodel Holdings, Inc.
Suite 1300
1105 North Market Street
Wilmington, DE 19899

UNITED STATES PATENT AND TRADEMARK OFFICE

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PITTSBURGH PA 15143

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of
Kannan Srinivasan et al.
Application No. 09/805,336
Filed: March 13, 2001
Attorney Docket No. 696.003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1] , filed May 23, 2005, to revive the above-identified application. This decision also treats the petition in the alternative under 37 CFR 1.137 (b)[2] as requested.

The petition under 37 CFR 1.137(a) is **GRANTED.**

The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned December 14, 2004 for failure to file a timely reply to the non-Final Office Action mailed September 13, 2004. Accordingly, a Notice of Abandonment was mailed March 23, 2005.

The file record discloses that a revocation and power of attorney, as well as a change of address was received in the office on August 20, 2004. The record also reveals that

---

[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 utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the notice of acceptance of Power of Attorney wasn't mailed until October 18, 2004. However, in the interim, a non-Final Office Action was mailed September 13, 2004 to the previous attorney of record.

Petitioner argues that the failure to file a proper and timely reply to the non-Final Office Action mailed September 13, 2004 was unavoidable due to their non-receipt of the office communication.

In view of the facts set forth in the petition and a review of the file record, it is concluded that due to an error on the part of the USPTO, the non-Final Office Action mailed September 13, 2004 was sent to the wrong address and that it was therefore never received by the proper party of record. Accordingly, there is no need to treat the petition under the unintentional standard and thus the difference between the petition fee under 37 CFR 1.137(a) and 37 CFR 1.137(b), $500.00, will be refunded to petitioner in due course.

This application is being forwarded to Technology Center 3622 for appropriate action on the amendment filed May 23, 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

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MINNEAPOLIS, MN 55440-1022

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Arnaout, et al.	:	DECISION ON APPLICATION
Application No. 09/805,354	:	FOR PATENT TERM ADJUSTMENT
Filed: March 13, 2001	:	
Atty. Dkt. No.: 00786-536001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B)," filed February 28, 2006.

The application for patent term adjustment under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed November 30, 2005, indicated a patent term adjustment (PTA) to date of 58 days. The issue fee payment was timely received February 28, 2006.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 162 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 162 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 58 days to an adjustment of 174 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 508 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(2).

The adjustment of 508 days is properly reduced a total of 346 days, as further detailed herein.

The Office errantly reduced the adjustment 257 days in connection with applicants' response to Notice of Missing Parts mailed June 15, 2001. The correct reduction in connection with applicants' response to the Notice to File Missing Parts is 107 days in accordance with 37 CFR 1.704(b). The reduction began September 16, 2001, the day after the date that is three months after the date that the Notice to File Missing Parts was mailed, and ended December 31, 2001, the date a response to the Notice to File Missing Parts was filed.

The adjustment of 508 days is further reduced 37 days in accordance with 37 CFR 1.704(c)(7). The reduction began January 1, 2002, the day after the date that the reply containing the omission was filed, and ended February 6, 2002, the date a reply correcting the omission was filed.

The adjustment of 508 days is further reduced nine days in accordance with 37 CFR 1.704(c)(8). The reduction began February 7, 2002, the day after the date that the reply was filed, and ended February 15, 2002, the date the supplemental reply was filed.

The adjustment of 508 days is further reduced four days in accordance with 37 CFR 1.704(b), as acknowledged by applicants.

The adjustment of 508 days is further reduced 94 days in accordance with 37 CFR 1.704(b), as acknowledged by applicants.

The adjustment of 508 days is further reduced 95 days in accordance with 37 CFR 1.704(b), as acknowledged by applicants.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 162 days.

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

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

RICHARD F. GIUNTA
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
FEDERAL RESERVE PLAZA
BOSTON MA 02210-2211

COPY MAILED

FEB 13 2003

OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 09/805,368
Filed: March 13, 2001
Attorney Docket No. C01104/70015

: 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 October 15, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed applications, 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 applications set forth in the amendment filed October 15, 2002.

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, 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 references to other related applications may be made when appropriate (*see* § 1.14).

(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).

The instant application was filed on March 13, 2001 and was pending at the time of filing of the instant petition.

The reference to the prior-filed nonprovisionals applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (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).

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 hte 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 reference to the, prior-filed provisional applications was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (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)(5)(ii).

The instant petition does not comply with item (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications 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) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed October 15, 2002 fails to state the relationship of Application No. 08/920,156, filed August 26, 1997, Application No. 09/425,770, filed October 22, 1999 and Application No. 09/213,548, filed December 17, 1998, to the instant application. Additionally, the amendment of October 15, 2002 fails to provide an identification of the intermediate nonprovisional application that is directly claiming the benefit of the provisional application(s). Petitioner should keep in mind that an incorporation-by-reference statement to the prior-filed applications is inappropriate where the incorporation-by-reference statement was not present on filing.

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) cannot be granted.

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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 21

RICHARD F. GIUNTA
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
FEDERAL RESERVE PLAZA
BOSTON MA 02210-2211

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 09/805,368
Filed: March 13, 2001
Attorney Docket No. C01104/70015

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on March 13, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§120 for the benefit of prior-filed nonprovisional applications, 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 applications set forth in the amendment submitted March 13, 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 March 13, 2001 and was pending at the time of filing of the instant petition. 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 required by 37 CFR 1.78(a)(2)(iii).

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 several prior-filed provisional applications. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(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

---

references to other related applications may be made when appropriate (*see* § 1.14).

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 not 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.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

The application is being forwarded to Technology Center Art Unit 2821 for processing the amendment filed March 13, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

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.
09/805,370	03/13/2001	Thomas A. Chimenti	47789.255800	1549

28694 7590 07/16/2004

TRACY W. DRUCE, ESQ.
1496 EVANS FARM DR
MCLEAN, VA 22101

EXAMINER	
CRONIN, STEPHEN K	
ART UNIT	**PAPER NUMBER**
3727	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. CHIMENTI ET AL.
Issue Date: May 25, 2004
Appl No.: 09/805,370
Filed: March 13, 2001
For: Vertically-Engageable Carrier Foot

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed March 5, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Lee W. Young
Supervisory Patent Examiner
Art Unit 3727
Patent Examining Group 3720

HOWREY SIMON ARNOLD & WHITE LLP
1299 PENNSYLVANIA AVE., NW
BOX 34
WASHINGTON, DC 20004

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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MAY 13 2002

OFFICE OF PETITIONS

Larry S. Nixon
NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201

In re Application of
Wyatt et al.
Application No.09/805,377
Filed: March 14, 2001
Attorney Docket No. 36-1567

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 31, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Karen Thirlwell attest a copy of the application was mailed to the non-signing inventor. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses 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.

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 Petitions Attorney Charlema R. Grant at (703) 306-0251.

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
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

KONRAD RAYNES & VICTOR LLP
315 BEVERLY DRIVE, #210
BEVERLY HILLS, CA 90212

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Isamu Namose
Application No. 09/805,382
Filed: March 13, 2001
Attorney Docket No. 15.38/5796

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed March 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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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FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Hansen, et al.	:	
Application No. 09/805,395	:	DECISION ON PETITION
Filed: March 13, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 21618-001002	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to 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)(5)(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.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, a nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) 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 application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2614 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

CC: FISH & RICHARDSON, P.C.
ONE CONGRESS PLAZA, SUITE 810
111 CONGRESS AVENUE
AUSTIN, TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/805,395	03/13/2001	2614	1509	21618-001002	29	12

CONFIRMATION NO. 7984

CORRECTED FILING RECEIPT

26201
FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis, MN 55440-1022

OC000000025989962

Date Mailed: 09/25/2007

Receipt is acknowledged of this nonprovisional 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 (if appropriate).**

Applicant(s)

Harold E.A. Hansen II, Plano, TX;
Eric G. Suder, Plano, TX;

Assignment For Published Patent Application

Estech Systems, Inc.

Power of Attorney:

Bruce Lutz--20660
Gregory Carr--31093
James Murphy--34503
Elizabeth Apperley--36428
Kelly Kordzik--36571
Elizabeth Hall--37344
Philip Golden--37631
Robert McCutcheon--38717
Brent Capehart--39620

Domestic Priority data as claimed by applicant

This application is a CON of 08/873,215 06/11/1997 PAT 6,252,944
which claims benefit of 60/023,749 06/12/1996

Foreign Applications

If Required, Foreign Filing License Granted: 05/14/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/805,395

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Telephone call/voice processing system

Preliminary Class

379

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. BOX 1920
DENVER CO 80201-1920

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Wetzel et al. :
Application No. 09/805,407 : DECISION ON PETITION
Filed: March 12, 2001 :
Attorney Docket No. 10003969-1 :

This is a decision on the petition filed July 27, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 7, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 8, 2006. A Notice of Abandonment was mailed on June 23, 2006.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Buschmann et al.	:	
Application No. 09/805,432	:	ON PETITION
Filed: March 14, 2001	:	
Attorney Docket No. 025896-00002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a continuing application; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The above-identified application 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. 11/252,623.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Edmonds and Comito	:	DECISION REFUSING STATUS
Application No. 09/805,492	:	UNDER 37 CFR 1.47(b)
Filed: 13 March, 2001	:	
Atty Docket No. DIVA/246DIV3	:	

This is a decision in response to the petition under 37 CFR 1.47(b) filed on 22 October, 2001.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 13 March, 2001, without an executed oath or declaration. Accordingly, on 26 April, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration, the statutory basic filing fee, additional claim fee(s) and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 22 October, 2001, petitioners filed the present petition, surcharge, statutory basic filing and additional claim

fees, and petition fee. Authorization for a four (4) month extension of time was also filed.

With regards to the petition under 37 CFR 1.47(b), petitioners assert that the non-signing inventors did not sign and return the declaration after having been sent the application papers.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (5).

In regard to item (5), petitioners have not shown sufficient proprietary interest in the subject matter to justify filing of the application under 37 CFR 1.47(b).[1] Petitioners may provide proof by showing a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

[1] MPEP 409.03(f).

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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NOV 30 2006

OFFICE OF PETITIONS

In re Application of :
Edmonds and Comito : DECISION ACCORDING STATUS
Application No. 09/805,492 : UNDER 37 CFR 1.47(b)
Filed: 13 March, 2001 :
Atty Docket No. DIVA/246DIV3 :

This is a decision in response to the renewed petition filed on 28 September, 2006, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioners have shown that the joint inventors have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners shown, via the declaration of Evadne Pickett-Walker, that a copy of the application was sent to each of the non-signing inventors. Inventors Jeremy S. Edmonds and John P. Comito, however, have failed to sign and return the declaration naming them as joint inventors. Additionally, petitioners presented copies of employment agreements signed by both joint inventors showing that petitioner DIVA Systems Corporation, the assignee of record at the time the application was filed, has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Stephanie A. Storms, Senior Vice President of DIVA Systems Corporation, and has demonstrated that such action is necessary to preserve the rights of the parties.

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(c), this Office will forward notice of this application's filing to the non-signing inventor at the

residence address listed on the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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John P. Comito
907 Pleasant Hill Road
Redwood City CA 94061

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NOV 30 2006

OFFICE OF PETITIONS

In re Application of
Edmonds et al.
Application No. 09/805,492
Filed: 13 March, 2001
For: METHOD AND APPARATUS FOR PERFORMING SUB-PICTURE LEVEL SPLICING BASED ON INTERRUPTS

Dear Mr. Comito:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint 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 the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PATTERSON & SHERIDON, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York NY 10038

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NOV 18 2008

In re Application of :
Douglas MONTICCIOLO :
Application No. 09/805,522 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 198191/0004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 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 03, 2008. 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). A THREE (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 04, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; 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.

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 Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 3695 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

DEC - 1 2004

In re Application of:
Jean-Philippe DuBois
Serial No.: 09/805,571
Filed: March 14, 2001
Attorney Docket No.: **MPM/PH/12980-USA**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition, filed June 22, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181 and re-mail the Notice of Allowance and Fee(s) Due. No petition fee is required.

The petition is **GRANTED.**

A Notice of Allowance and Fee(s) Due (herein after "Notice") was mailed on February 13, 2004 setting a three month statutory period for paying the required fees. The period for paying the fees has expired and A Notice of Abandonment has not been mailed.

Petitioner asserts that the Notice mailed on February 13, 2004, was not received. To support this assertion, petitioner provided a statement verifying that the Notice was not received. The petition is accompanied by a copy of the docket record where the non-received Notice would have been entered had it been received by petitioner.

A review of the file record indicates the Notice mailed February 13, 2004 is not of record. The petition, including the copy of the docket records, is sufficient to establish a showing of non-receipt of the Notice mailed November 28, 2001, especially when the Office record does not contain such Notice.

For the above stated reason, the petition is granted. Inconvenience to the applicant is regretted.

A new Notice of Allowability and a new Notice of Allowance and Fee(s) Due will be issued. The new statutory period for paying the required fee(s) will be set to run from the date the Notices are mailed. Extensions of time period are not available under 37 C.F.R. § 1.136(a).

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Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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112004

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

DEC - 1 2004

In re Application of:
Jean-Philippe DuBois
Serial No.: 09/805,571
Filed: March 14, 2001
Attorney Docket No.: **MPM/PH/12980-USA**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition, filed June 22, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181 and re-mail the Notice of Allowance and Fee(s) Due. No petition fee is required.

The petition is **GRANTED.**

A Notice of Allowance and Fee(s) Due (herein after "Notice") was mailed on February 13, 2004 setting a three month statutory period for paying the required fees. The period for paying the fees has expired and A Notice of Abandonment has not been mailed.

Petitioner asserts that the Notice mailed on February 13, 2004, was not received. To support this assertion, petitioner provided a statement verifying that the Notice was not received. The petition is accompanied by a copy of the docket record where the non-received Notice would have been entered had it been received by petitioner.

A review of the file record indicates the Notice mailed February 13, 2004 is not of record. The petition, including the copy of the docket records, is sufficient to establish a showing of non-receipt of the Notice mailed November 28, 2001, especially when the Office record does not contain such Notice.

For the above stated reason, the petition is granted. Inconvenience to the applicant is regretted.

A new Notice of Allowability and a new Notice of Allowance and Fee(s) Due will be issued. The new statutory period for paying the required fee(s) will be set to run from the date the Notices are mailed. Extensions of time period are not available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Naoto Kinjo	:	DECISION ON PETITION TO
Application No. 09/805,582	:	WITHDRAW HOLDING OF
Filed: 14 March, 2001	:	ABANDONMENT
Attorney Docket No. 049390-5008	:	

This is a decision on the petition filed on 3 January, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 3 June, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 December, 2005.

Petitioner asserts that the Office action mailed on 3 June, 2005, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and

docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted verified statements from the practitioner, Mary Jane Boswell, stating that the Office communication was not received by the practicioner, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Copies of docket records for the above-identified application where the non-received Office action would have been entered had it been received and docketed were attached.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2612 technical support staff for remailing of the Office action. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 14

RICHARD F. GIUNTA
C/O WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 09/805,590
Filed: March 13, 2001
Attorney Docket No. C01104/70016

: 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 October 15, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications, 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 applications set forth in the amendment filed October 15, 2002.

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, 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 references to other related applications may be made when appropriate (*see* § 1.14).

(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).

The instant application was filed on March 13, 2001 and was pending at the time of filing of the instant petition.

The reference to the prior-filed nonprovisionals applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (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).

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 hte 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 reference to the, prior-filed provisional applications was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (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)(5)(ii).

The instant petition does not comply with item (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications 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) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed October 15, 2002 fails to state the relationship of Application No. 08/920,156, filed August 26, 1997, Application No. 09/425,770, filed October 22, 1999 and Application No. 09/213,548, filed December 17, 1998, to the instant application. Additionally, the amendment of October 15, 2002 fails to provide an identification of the intermediate nonprovisional application that is directly claiming the benefit of the provisional application(s). Petitioner should keep in mind that an incorporation-by-reference statement to the prior-filed applications is inappropriate where the incorporation-by-reference statement was not present on filing.

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) cannot be granted.

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

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Paper No. 18

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 09/805,590
Filed: March 13, 2001
Attorney Docket No. C01104/70016

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on March 13, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§120 for the benefit of prior-filed nonprovisional applications, 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 applications set forth in the amendment submitted March 13, 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 March 13, 2001 and was pending at the time of filing of the instant petition. 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 required by 37 CFR 1.78(a)(2)(iii).

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 several prior-filed provisional applications. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(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

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references to other related applications may be made when appropriate (*see* § 1.14).

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 not 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.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

The application is being forwarded to Technology Center Art Unit 2821 for processing the amendment filed March 13, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

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IRELL & MANELLA LLP
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SUITE 400
NEWPORT BEACH, CA 92660

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Van Diep Nguyen, et al. :
Application No. 09/805,598 : DECISION ON PETITION
Filed: March 12, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 155603-0209 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of 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 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). 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 application 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 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 decision on petition may be directed to Retta Williams at (571) 272-3229. 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 2123 for appropriate action on the amendment filed January 31, 2005, 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.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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Paper No. 6

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

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OFFICE OF PETITIONS

In re Application of :
Carpenter et al. :
Application No. 09/805,620 : DECISION ON PETITION
Filed: March 13, 2001 :
Attorney Docket No.: MI22-1563 :

This is a decision on the Petition to the Commissioner Under the Authority of 37 CFR 1.181, filed August 28, 2003 to re-mail the Notice to File Corrected Application Papers, which is properly treated as a petition to withdraw the holding of abandonment.

The petition is **granted**.

Petitioner avers non-receipt of the Notice to File Corrected Application Papers (hereinafter "Notice"), putatively mailed on January 28, 2002. In support, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

Moreover, a review of the application file has located the Notice.

The mailing of this Decision precedes the mailing of a Notice of Abandonment. No fee has been charged and none is due.

A copy of the January 28, 2002 Notice is enclosed herewith.

The application file is being returned to the Office of Initial Patent Examination for re-mailing the Notice to File Corrected Application Papers and for resetting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Notice to File Corrected Application Papers

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OFFICE OF PETITIONS

SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

In re Application of :
Swiler, et al. :
Application No. 09/805,640 : DECISION ON PETITION
Filed: 13 March, 2001 :
Attorney Docket No. SD6528S93789 :

This is a decision on the petition filed on 28 June, 2005, to exercise supervisory authority under 37 C.F.R. §1.181.

The petition is **DISMISSED**.

BACKGROUND

A review of the application file reveals that:

- Petitioner appears to have filed the instant petition on 28 June, 2005, in response to the 22 June, 2005, decision of the Director/Technology Center 2100 to withdraw the instant application from issue following payment of the issue fee;

- thereafter, on 31 August, 2005, the Office mailed a new Notice of Allowance and Fees Due along with a Notice of Allowability.

Thus, the matter raised by Petitioner is resolved.

Therefore, the instant petition is dismissed as moot; no fees were authorized, paid or charged in connection with this petition.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MAR 30 2005

OFFICE OF PETITIONS

In re
Grimse, et al.
Application No. 09/805,646
Filed: March 13, 2001
Patent No. 6,850,924
Issued: February 1, 2005

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM RESTORATION UNDER 37 CFR § 1.705(d)," filed February 11, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **six hundred thirty-two (632)** days.

On September 15, 2004, the Determination of Patent Term Adjustment was mailed, indicating a patent term adjustment of two hundred ninety-four (294) days. Applicants timely filed an application for patent term adjustment on December 1, 2004. The application for patent term adjustment was not acted upon, and on February 1, 2005, the application matured into U.S. Patent No. 6,850,924. The patent issued with a Patent Term Adjustment of two hundred forty (240) days.

Patentees assert entitlement to a patent term adjustment of 470 days on the basis that the PTO improperly assessed applicant delay of fifty-four (54) days for filing an application for patent term adjustment on December 10, 2004. In addition, as originally stated in the December 10, 2004 application for patent term adjustment, patentees argue that they were improperly assessed applicant delay of one hundred seventy-six (176) days for responding to an August 26, 2003 Office action on May 20, 2004. According to patentees, their response was filed on December 1, 2003, and as such they should have been assessed five (5) days of applicant delay, not 176.

Patentees state that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of two hundred forty (240) days based on an adjustment for PTO delay of four hundred seventy (470) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of one hundred seventy-six (176) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and fifty-four (54) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The adjustments of 176 and 54 days are at issue.

The adjustment of 176 days has been found to be incorrect. Patentee has submitted a copy of a postcard receipt for the instant application, itemizing a "Response to Office Action" and bearing a USPTO date stamp of December 1, 2003. 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.[1] Accordingly, by filing on December 1, 2003, patentees should have been assessed five (5) days of applicant delay.

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[1] MPEP 503.

In view of the above, pursuant to 37 C.F.R. § 1.703(a)(2), the Office had four months, or until April 1, 2004, to mail an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The Office mailed a Notice of Allowance on September 15, 2004. Therefore, PTO delay of one hundred sixty-seven (167) days should have been assessed.

Lastly, the adjustment of 54 days for the filing of an application for patent term adjustment on December 10, 2004 has been found to be incorrect. See 37 C.F.R. § 1.704(e).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. § 1.322 is appropriate. The correct determination of patent term adjustment is six hundred thirty-two (632) days (637 days of PTO delay, reduced by 5 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 07-1896, as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **six hundred thirty-two (632)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: copy of draft Certificate of Correction

Day : Wednesday

PALM INTRANET

Date: 3/30/2005
Time: 11:18:50

PTA Calculations for Application: 09/805646			
Application Filing Date:	03/13/2001	PTO Delay (PTO):	470
Issue Date of Patent:	02/01/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	230
Post-Issue Petitions:	0	Total PTA (days):	632
PTO Delay Adjustment:	392		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
35	03/30/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	392		
30.5	01/12/2005	PTA 36 MONTHS			
30	02/01/2005	PATENT ISSUE DATE USED IN PTA CALCULATION			
29	01/07/2005	RECEIPT INTO PUBS			
28	01/06/2005	DISPATCH TO FDC			
27	01/06/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
26	12/10/2004	ISSUE FEE PAYMENT VERIFIED			
25	12/10/2004	MISCELLANEOUS INCOMING LETTER		54	
24	12/10/2004	ISSUE FEE PAYMENT RECEIVED			
23	12/01/2004	RECEIPT INTO PUBS			
22	10/12/2004	RECEIPT INTO PUBS			
21	09/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
20	09/15/2004	MAIL NOTICE OF ALLOWANCE			
19	09/14/2004	CORRESPONDENCE ADDRESS CHANGE			
18	09/14/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	09/14/2004	ISSUE REVISION COMPLETED			
16	09/14/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
15	09/14/2004	NOTICE OF ALLOWABILITY			
14	07/02/2004	REFERENCE CAPTURE ON IDS			
13	05/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/02/2004	DATE FORWARDED TO EXAMINER			
11	05/20/2004	RESPONSE AFTER NON-FINAL ACTION		176	8

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10	05/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
9	12/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/26/2003	MAIL NON-FINAL REJECTION	470		-1
7	08/22/2003	NON-FINAL REJECTION			
6	08/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
5	12/07/2001	APPLICATION DISPATCHED FROM OIPE			
4	11/15/2001	APPLICATION IS NOW COMPLETE			
3	04/04/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/31/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/13/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

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APR 0 4 2005

Technology Center 2100

In re Application of:
Theodore Simon et al.
Application No. 09/805,696
Filed: March 13, 2001
For: INTEGRATED SECURITY AND COMMUNICATIONS SYSTEM WITH SECURE COMMUNICATIOINS LINK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 10, 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 December 10, 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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Mr. Peter Axelsen
10 Mayflower Court
Centerport, NY 11721

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DONALD W. MEEKER
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924 EAST OCEAN FRONT, #E
NEWPORT BEACH CA 92661

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Sleamaker	:	DECISION ON PETITION
Application No. 09/805,711	:	UNDER 37 CFR 1.137(b)
Filed: March 13, 2001	:	
Attorney Docket No. SLEAMAKER	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed January 7, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on April 8, 2005. A Notice of Abandonment was mailed on July 26, 2005.

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, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted**.

This matter is being referred to Technology Center Art Unit 3764.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SEP 21 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ronald Hildreth
Baker Botts L.L.P.
44th Floor
30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of :
SCHNIGENBERG, Jorn :
Application No.: 09/805,719 :
Filing Date: 26 July 1999 : DECISION ON PETITION
Attorney Docket No.: 070255.0602 :
For: METHOD FOR THE PRODUCTION OF A :
CATALYTIC CONVERTER HOUSING :
USING A WINDING-TENSIONING :

This decision is in response to applicant's "PETITION FOR REVIVE UNINTENTIONALLY ABANDONED APPLICATION" filed in the Patent and Trademark Office (PTO) on 27 February 2001.

BACKGROUND

On 26 July 1999, applicants filed international application PCT/EP99/05320, which claimed a priority date of 26 August 1998 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 March 2000. A Demand for international preliminary examination was filed prior to expiration of 19 months from the priority date. Accordingly, the last day of the thirty-month period for paying the basic national fee for entry into the national stage in the United States was 26 February 2001.

On 27 February 2001, applicant filed the instant petition which stated, "[u]nder the provisions of 37 C.F.R. § 1.137(b), please revive, as to the United States the above-reference PCT international application for which Continuation status is being applied for under 35 U.S.C. §120."

DISCUSSION

International application PCT/EP99/05320 became abandoned as to the United States of America at midnight on 26 February 2001 for failure to pay the basic national fee.

A. Conflict In Filing Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.494(f):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the

submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-114 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 27 February 2001, applicant submitted a petition to revive under 37 CFR 1.137 which stated, "[u]nder the provisions of 37 C.F.R. § 1.137(b), please revive, as to the United States the above-reference PCT international application for which Continuation status is being applied for under 35 U.S.C. §120." The statement is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 27 February 2001 will be treated as a filing under 35 U.S.C. 111(a).

B. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the filing of the continuing application.

As to Item (2), the appropriate petition fee of $1240.00 has been submitted.

As to item (3), the statement "the delay in filing the continuing application was unintentionally" will be construed as "[t]he entire delay from the due date for filing a national phase application until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Application No. 09/805,719) and the international application (PCT/EP99/05320) designating the United States were copending on 27 February 2001. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/EP99/05320, filed 26 July 1999, which designated the United States and is now abandoned."

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/EP99/05320 is **GRANTED**.

International application no. PCT/EP99/05320 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuing application number 09/805,719.

The present application will then be forwarded to Art Unit 1764 for examination in due course.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

Pet. Dec.

UNITED STATES 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: 5/9/05

dss
Paper No.

In re Application of
Patrice Caillat et al.
Serial No. 09/805,772
Filed: March 16, 200 1
For: DEVICE COMPRISING A PLURALITY OF ANALYSIS SITES ON A SUPPORT

DECISION
ON
PETITION

This is a decision on the petition filed December 28, 2004, requesting the consideration of Comments on Statement of Reasons for Allowance filed December 09, 2004(copies attached to the instant petition) .

Issues:

The Applicants assert that the Reasons for Allowance mailed October 24, 2004 improperly referenced "the use of two different hydrophobic materials" as the instant invention recites "two different hydrophilic materials" and requests a new Reasons for Allowance be mailed to clarify the record.

Decision:

Upon review of the application file history, it is noted that Applicant's request for consideration was entered by the Examiner and considered in Supplemental Notice of Allowance mailed March 01, 2005 . Therein, the Examiner agreed with the assertion of the improper Reasons for Allowance and remailed the Reasons for Allowance.

The petition is **DISMISSED** as moot in view of the action by the examiner.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Oblon, Spivak, McClelland,
Maier, & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

07-26-01 USE

LAHIVE & COCKFIELD LLP

COUNSELLORS AT LAW
28 STATE STREET
BOSTON, MASSACHUSETTS 02109-1784
TELEPHONE (617) 227-7400
FAX (617) 742-4214
lc@lahcoc.com

OIPE JUL 24 2001 PATENT & TRADEMARK OFFICE

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ASHITA DOSHI, Ph.D.
JACOB G. WEINTRAUB

* Admitted in NY only
** Passed the Patent Bar Examination

July 24, 2001

Commissioner for Patents
Washington, D.C. 20231

Attn: Initial Patent Examination Division
Customer Service Center

Re: U.S. Patent Application Serial No. 09/805,785
Title: *"Methods and Reagents for Preservation of DNA in Bodily Fluids"*
Inventor: Tony Baker
Filing Date: March 13, 2001
Attorney Docket No. SDB-001CN

Dear Sir:

I enclose herewith for filing in the above-identified application the following:

1. Preliminary Amendment and Response to Notice to File Corrected Application Papers;
2. Transmittal of Drawings *(in duplicate);*
3. Fourteen (14) Sheets of Drawing *(Figures 1-18G);*
4. Paper Copy of the Sequence Listing *(page 1);*
5. Transmittal Letter for Diskette Containing Sequence Listing;
6. Diskette Containing Sequence Listing;
7. Copy of the Notice to File Corrected Application Papers; and
8. Prepaid acknowledgement postcard.

Please charge any necessary fees and credit any overpayments to our Deposit Account No. 12-0080. The undersigned requests any extensions of time necessary to respond. *A duplicate of this sheet is enclosed.*

"Express Mail" mailing label number EL 683 637 995 US

Date of Deposit July 24, 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Washington, D.C. 20231, Attn: Initial Patent Examination Division, Customer Service Center

Signature

Larry Taylor

Please Print Name of Person Signing: Larry Taylor

LAHIVE & COCKFIELD, LLP
Attorneys at Law

By:

Nicholas P. Triano, III, Esq.
Registration No. 36,397
28 State Street
Boston, MA 02109
Telephone: 617-227-7400
Facsimile: 617-742-4214

OIPE
JUL 2 4 2001
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Tony Baker

Application No.: 09/805,785

Filed: March 13, 2001

For: *Methods and Reagents for Preservation of DNA in Bodily Fluids*

Attorney Docket No.: SDB-001CN

Group Art Unit: Not Yet Assigned

Examiner: Not Yet Assigned

Commissioner for Patents
Washington, D.C. 20231

Attn: Initial Patent Examination Division
Customer Service Center

TRANSMITTAL OF SUBSTITUTE DRAWINGS

Dear Sir:

In response to the Notice to File Corrected Application Papers mailed May 24, 2001, enclosed herewith are fourteen (14) sheets of Substitute Drawings (Figures 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18A, 18B, 18C, 18D, 18E, 18F, and 18G). Applicant respectfully submits that the *substitute* drawings are in compliance with 37 C.F.R. §1.84. Applicant requests that the drawings be filed in the above-referenced patent application. A copy of Notice to File Corrected Application Papers is also enclosed. *No new matter has been added.*

"Express Mail" mailing label number EL 683 637 995 US

Date of Deposit July 24, 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Washington, D.C. 20231, Attn: Initial Patent Examination Division, Customer Service Center

Signature

Larry Taylor

Please Print Name of Person Signing: Larry Taylor

LAHIVE & COCKFIELD, LLP

Attorneys at Law

By: _____

Nicholas P. Triano, III, Esq.
Registration No. 36,397
28 State Street
Boston, MA 02109
Telephone: 617-227-7400
Facsimile: 617-742-4214

Date: **July 24, 2001**

OIPE
JUL 24 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/805,785	03/13/2001	Tony Baker	SDB-001CN

CONFIRMATION NO. 2845

000959
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

COPY

FORMALITIES LETTER

OC000000006115658

Date Mailed: 05/24/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. 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 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**

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **19** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Dec. 9, 2002

Nicholas P. Triano III
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111

In re Application of	:	
Tony Baker	:	
Application Serial No. 09/805,785	:	PETITION DESICION
Filed: April 13, 2001	:	
Attorney Docket No.: 24219-001CON	:	

This is in response to applicants' petition filed October 26, 2002, requesting to make special (MPEP 708.02XII).

Applicant's statement has been reviewed. MPEP708.02 XII requirements are met. Accordingly, the petition is Granted.

The application will be advanced out of turn for examination and will continue to be treated as special throughout the entire prosecution in the Office.

Should there be any questions with respect to 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

Jasemine C. Chambers
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. 4

MAILED

JUL 1 5 2002

Technology Center 2100

Seth E. Rodack
1000 Town Center, 22nd Floor
Southfield, Michigan 48075

In re Application of:
John Eugene PLANALP et al.
Application No. 09/805,791
Filed: April 14, 2001
For: SYSTEM AND METHOD FOR MANAGING PRODUCT DEVELOPMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 18, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center
Box 161
6110 Center Hill Avenue
Cincinnati OH 45224

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
John Eugene Planalp, et. al. :
Application No. 09/805,791 : ON PETITION
Filed: March 14, 2001 :
Attorney Docket No. 8381/PRGA 0102 PUSP :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 19, 2004, to revive the above-identified application.

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 August 17, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned November 17, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,370 for the petition to revive fee, $1,330 for the issue fee, $300 for the publication fee and $9 for three (3) advance soft copies. However, effective October 1, 2004, the large entity issue fee was increased to $1,370. Therefore, as authorized in the petition, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

REGINALD J SUYAT
FISH & RICHARDSON PC
2200 SAND HILL ROAD
SUITE 100
MENLO PARK, CA 94025

COPY MAILED

APR 25 2002

OFFICE OF PETITIONS

In re Application of :
Mohammad A. Heidaran et al :
Application No. 09/805,816 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 07078-030001 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 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 April 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 June 24, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 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.

BEST AVAILABLE COPY

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

cc: FISH & RICHARDSON PC
500 ARGUELLO STREET
SUITE 500
REDWOOD CITY, CA 94063

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

COPY MAILED

JUL 21 2006

OFFICE OF PETITIONS

In re	:
Dominic Yip	: DECISION REGARDING
Application No. 09/805,877	: PATENT TERM ADJUSTMENT
Filed: March 15, 2001	:
Patent No. 6,922,491	:
Issued: July 26, 2005	:

This decision is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed August 29, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

The Office determined a patent term adjustment of seven hundred forty (740) days based on an adjustment for PTO delay of seven hundred seventy-nine (779) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicant's delay of thirty-four (34) days and five (5) days pursuant to 35 U.S.C. 154(b)(1)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the application does not reveal any errors in the calculation of the patent term adjustment. Accordingly, the patent term adjustment of seven hundred forty (740) days appears to be correct. To the extent that patentees are aware of any specific error in the PTA calculation, patentees should so advise the Office.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

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AUG 29 2008

OFFICE OF PETITIONS

In re Application of
Rodney Senior
Application No. 09/805,950
Filed: March 15, 2001
Attorney Dkt. No.: 13620

ON PETITION

This is a decision on the "Petition under 37 CFR 1.181 For Nunc Pro Tunc Payment of Extension of Time Or, In the Alternative, Withdrawing the Holding of Abandonment", filed June 11, 2008. In the alternative, petitioner has requested treatment under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **Dismissed**.

The petition to revive the application under 37 CFR 1.137(b) is **Granted**.

This above-identified application was held abandoned for failure to timely file a response to a final Office Action which was mailed on December 13, 2006. The 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 March 14, 2007. A Notice of Abandonment was mailed on July 5, 2007.

Petition Under 37 CFR 1.181

Petitioner argues for *nunc pro tunc* payment for the extension of time in the above-identified application, which is the parent of the Continuation in Part " hereinafter CIP" application no. 11/810,638, in order to establish co-pendency. Applicant seeks to rely on the prior submissions of general authorizations to charge petitioner's deposit account in the above-identified application and the general authorization filed in the CIP application.

Petitioner's argument has been considered but is not persuasive to establish the holding of abandonment should be withdrawn. To facilitate processing, any petition for

an extension of time (or petition to revive under 37 CFR 1.137(b)) in which a continuing application is filed in lieu of a reply should specifically refer to the filing of the continuing application and also should include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. A review of the record shows that an extension of time nor any other reply including notifying the Office that a CIP had been filed was submitted in the above-identified application.

An extension of time will not be effected in the prior application by filing a petition for an extension of time, extension fee, or fee authorization, in the continuing application. This is because the petition for an extension of time (or constructive petition under 37 CFR 1.136(a)(3)) must be directed toward and filed in the application to which it pertains in accordance with 37 CFR 1.4 and 1.5. See MPEP 710.02(e)

As such, a finding to withdraw the holding of abandonment is not warranted.

Petition Under 37 CFR 1.137(b)

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 $770.00 ; 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. 11/810,638 .

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard F. Giunta
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2211

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Rogers et al.
Application No. 09/805,957
Filed: March 14, 2001
For: METHOD AND APPARATUS FOR FORMING LINKED MULTI-USER GROUPS OF SHARED SOFTWARE APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 1, 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**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID M. OVEDOVITZ
WENDEROTH LIND & PONACK, L.L.P.
2033 K ST., N.W., SUITE 800
WASHINGTON, D.C. 20006-1021

COPY MAILED

FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Kiyomi Sakamoto et al :
Application No. 09/805,991 : ON PETITION
Filed: March 15, 2001 :
Attorney Docket No. 2001 0308A

This is a decision on the petition, filed February 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 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 will be forwarded to Technology Center AU 2671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Kiyomi Sakamoto et al :
Application No. 09/805,991 : ON PETITION
Filed: March 15, 2001 :
Attorney Docket No. 2001_0308A :

This is a decision on the petition under 37 CFR 1.313(c), filed November 18, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 2 0 2001

Technology Center 2100

Paper No. 4

Oblon, Spivak, McClelland, Maier & Neustadt PC
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

In re Application of: Jeffrey Mount et al.	)	DECISION ON PETITION FOR
Application No. 09/805,997	)	ACCELERATED
Filed: March 15, 2001	)	EXAMINATION UNDER
For: METHOD AND SYSTEM FOR	)	M.P.E.P. §708.02(VIII)
ACCUMULATING COUPON	)	
VALUES IN AN ACCOUNT FOR	)	
FUTURE REDEMPTION	)	

This is a decision on the petition, filed March 15, 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, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition is deficient in that the *identical statement*, that the entirety of Claim 1 is not taught or suggested by the reference, is presented for each of the references purported to be "most closely related". The discussion does not point out how the ***claimed subject matter is patentable over the references***. In addition, the discussion of each of the references is restricted to a single brief sentence. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c).

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

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,621,609	2003-09-16	09/806,163	2001-03-27	18994-053001

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	/Bing Ai/	Date (YYYY-MM-DD)	2008-06-12
Name	Bing Ai	Registration Number	43312

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6621609
Issue Date: September 16,2003
Application No. 09806163
Filed: March 27,2001
Attorney Docket No. ALT1.PAU.28.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 12,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/07 Paper No.: ____

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 7231054

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:

Certificate of Corrections is approved by the Examiner.

/Jason Kurr/ (11/23/2009)

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Honchin En et al	:	
Application No. 09/806,203	:	DECISION GRANTING PETITION
Filed: June 19, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q63594	:	

This is a decision on the petition, filed December 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No. None

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of
Manfred Keller et al.
Application No. 09/806,210
Filed: March 27, 2001
Attorney Docket Number: 764-25351 US
Title: DATA TRANSMISSION METHOD

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on December 27, 2005.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on October 2, 2005. A Notice of Abandonment was mailed on December 8, 2005.

With the present petition, Petitioner has submitted the petition fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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 in paying the issue fee under 37 C.F.R. §1.137(b) was intentional, Petitioner must notify the Office.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: FUNK,STEVEN
Hollingsworth & Funk, LLC
8009 34th Avenue South
Suite 125
Minneapolis, MN 55425

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 9

Joseph S Tripoli
Thomson Multimedia Licensing Inc
P O Box 5312
Princeton, NJ 08540

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Daniel Mark Hutchinson :
Application No. 09/806,214 :
Filed: March 27, 2001 :
Attorney Docket No. RCA 89203 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed August 5, 2004, 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 September 26, 2003. 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 December 27, 2003. A Notice of Abandonment was mailed on May 19, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the September 26, 2003 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2614 for processing of the Amendment, filed August 5, 2004, 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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 21 2003

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Paper Number: 13

In re application of
Herbert Wegner et al
Serial No. 09/806,216
Filed: April 25, 2001
For: DEVICE FOR GENERATING AN AEROSOL:

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER MPEP 711.03(c) II, filed Feb. 25, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 31, 2003, for failure to timely file a proper response to the Office letter mailed July 17, 2002 be withdrawn. The petitioner asserts that the Office letter was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the above noted Office letter was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided is a copy of the attorney's docket records for SN 09/806,216 where the Office letter dated July 17, 2002 would have been posted had it been timely received.

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 to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

JORDAN & HAMBURG
122 EAST 42nd STREET
NEW YORK, NY 10168

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mark P Stone
25 THIRD STREET
4TH FLOOR
STAMFORD CT 06905

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NOV 10 2004

OFFICE OF PETITIONS

In re Application of :
Sandstrom :
U.S. Patent No. 6,810,956 : Corrected
Application No. 09/806,220 : Letter Regarding
International : Extension of Patent Term
Filing Date: September 22, 1999 :
For: THREAD COUPLING FOR A DRILL :
STRING FOR PERCUSSIVE ROCK DRILLING :

The above-identified patent has been forwarded to the undersigned for correction of the information printed on the front page of the patent relating to the patent term extension provisions under 35 U.S.C. § 154(b)[1] and 37 CFR. § 1.701.

The Office proposes to issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. Patentee is given THIRTY (30) DAYS to respond to this letter. If no objection is received from patentee, the Office will issue a certificate of correction indicating that the patent term is extended for **205 days** under 35 U.S.C. 154(b). This time limit is NOT extendible under 37 CFR 1.136.

The Notice of Allowance and Issue Fee Due mailed August 12, 2004, incorrectly indicated that the patent to issue from the application 09/806,220 was eligible for a 50 day extension when a 205 day extension is due. The front page of the patent incorrectly indicates that the term of the patent is extended for 50 days.

Issue of the above-identified application was delayed due to appellate proceedings before the Board of Appeals and Interferences, and the above-identified application has been allowed pursuant to a favorable decision by the Board.

A Notice of Appeal was filed in the above-identified application on December 11, 2003. On July 2, 2004, the Board of Appeals and Interferences reversed the decision of the examiner in the

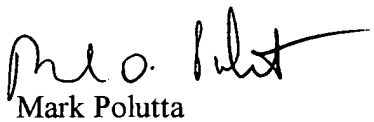
[1]35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the existing patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on December 11, 2003, the date that the Notice of Appeal was filed, and ending on July 2, 2004, the date of the final decision in favor of the applicant. Three years after the International filing date of the application is September 22, 2002. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 205 days, the period from December 11, 2003 to July 2, 2004, including the beginning and end dates.

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

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.



Mark Polutta
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
www.uspto.gov

In re Patent No. 7030058
Issue Date: April 18,2006
Application No. 09806275
Filed: March 27,2001
Attorney Docket No. 1920-060

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7030058	2006-04-18	09806275	2001-03-27	ID011710 -JLR

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2010-06-29
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. None

LICATLA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

COPY MAILED

SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Roberto A. Macina :
Application No. 09/806,311 :
Filed: July 18, 2001 : DECISION ON PETITION
Attorney Docket Number: DEX-0184 :
Title: NOVEL METHOD OF DIAGNOSING, :
MONITORING, STAGING, IMAGING AND :
TREATING GATROINTESTINAL :
CANCERS :

This is a decision on the petition filed July 12, 2005 under 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 submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on March 21, 2005.

Petitioner has indicated that the Notice was not received until July 1, 2005. The electronic file has been reviewed, and it is clear that on April 11, 2005, the notice was received at the Patent Office: it appears that the mailing was returned with the notation "Return to Sender – Insufficient Address" stamped on the exterior of the envelope.

With the present petition, Petitioner has included the issue fee.

The petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

1 See MPEP §710.02(e).

The Office of Patent Publication 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

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Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

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FEB 07 2005

OFFICE OF PETITIONS

In re Patent No. 6,706,683 :
Issue Date: March 16, 2004 :
Application No. 09/806,382 : ON PETITION
Filed: March 29, 2001 :
Attorney Docket No. ASAHI-3-PC-1 :

This is a decision on the petition under 37 CFR 1.182, filed November 17, 2004, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is granted.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 306-3475. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

cc: Krystal Paige, Crystal Park 3-910

AUG 14 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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David H. Brinkman
Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

In re Application of	:	
Kuhl et al	:	
Application No.: 09/806,410	:	DECISION ON
PCT No.: PCT/EP98/06225	:	
Int. Filing Date: 30 September 1998	:	PETITION
Priority Date: None	:	
Attorney's Docket No.: BEET-03	:	UNDER 37 CFR 1.181
For: Depth Measurement and Depth Control Or	:	
Automatic Depth Control For A Hollow To Be Produced	:	
By A Laser Procession Device	:	

This decision is in response to the "Request For Correction Of Notification Of Acceptance Of Application Under 35 USC §371," which is being treated as a petition under 37 CFR 1.181, requesting that the filing date of 29 March 2001 be accorded the above national application for the receipt of the preliminary amendment and the information disclosure statement.

DISCUSSION

On 29 March 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), copy of the international application, unsigned declaration and power of attorney, preliminary amendment, information disclosure statement, and a postcard return. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 25 April 2001, the United States Designated/Elected Office erroneously mailed a Notification of Acceptance (Form PCT/DO/EO/903) because at the time of mailing applicants had not submitted an oath or a declaration. This form also incorrectly informed the applicant that the Preliminary amendment and Information Disclosure have a filing date of 30 March 2001, which is an error based on the USPTO stamped postcard.

The correct filing date for the Preliminary amendment and Information Disclosure is a filing date of 29 March 2001.

The postcard lists the items submitted on 29 March 2001.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the Preliminary amendment and Information Disclosure were deposited with the Patent and Trademark Office on 29 March 2001.

Because the United States Designated/Elected Office erroneously mailed a Notification of Acceptance (Form PCT/DO/EO/903) since at the time of mailing applicants had not submitted an oath or a declaration, the Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 April 2001 is **VACATED** with the mailing of this decision.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** in that the Preliminary amendment and Information Disclosure were deposited with the Patent and Trademark Office on 29 March 2001. However, the Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 April 2001 is **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905(Notification of missing requirements) to inform applicant that an executed Declaration or Oath is missing.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

MAY 30 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Patrick J. Hagan
DANN DORFMAN HERRELL & SKILLMAN, P.C.
1601 Market Street, Suite 720
Philadelphia, PA 19103

In re Application of	
CANO GARCIA, Amparo *et al*	
U.S. Application No.: 09/806,445	
PCT No.: PCT/ES00/00226	
Int. Filing Date: 27 June 2000	DECISION ON
Priority Date: 01 July 1999	PETITION FOR REVIVAL
Attorney Docket No.: 0380-P02492US0	UNDER 37 CFR 1.137(b)
For: SNAIL, A NEW MARKER FOR TUMOUR INVASION AND TARGET PROTEIN OF NEW ANTITUMORAL COMPOUNDS	

The "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 30 March 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement, "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The appropriate basic national, processing fee, surcharge fee and petition fee have been paid. Therefore, the requirements of 37 CFR 1.137(b) have been satisfied.

However, an oath or declaration of the inventors pursuant to 35 U.S.C. 371(c)(4) was not provided. Accordingly, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 (a) and (b).

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Paper No. 7

QUARLES & BRADY LLP
Renaissance One
Two North Central Avenue
Phoenix, AZ 85004-2391

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DEC 30 2003

OFFICE OF DIRECTOR
GROUP 2800

In re Application of:
GUST *et al.*
Serial No.: 09/806,540
Filed: March 30, 2001
Attorney Docket No.: **9138-0032**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on February 12, 2003. A Notice of Abandonment was mailed on September 23, 2003.

A review of the written record indicates that a proper response to the Office action was previously filed on August 12, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. The response includes a request for a three-month extension of time and an amendment. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Janice A Falcone

Janice A Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

25 JUN 2003

#8

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WILLIAM E. VAUGHAN
BELL, BOYD & LLOYD, LLC
POB 1135
CHICAGO, IL 60690-1135

In re Application of	:	
CHRISTENSEN et al.	:	
Application No.: 09/806,563	:	DECISION
PCT No.: PCT/DE99/03101	:	
Int. Filing Date: 27 September 1999	:	
Priority Date: 90 September 1998	:	
Attorney Docket No.: 112740-201	:	
For: METHOD FOR TESTING SUBSCRIBER LINES	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371 regarding the withdrawal of abandonment in the above referenced application.

A Notification of Missing Requirements (Form PCT/DO/EO/905) is located in the above referenced application file indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. The Notice reflects a mail date of 23 April 2001; however, it references a different U. S. application number, first named applicant, attorney docket number, correspondence address and incomplete international application number.

Thereafter, on 08 July 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was erroneously mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements.

A review of the application indicates that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period have not yet been filed.

CONCLUSION

For the reasons stated above, the Notificatin of Missing Requirements mailed on 23 April 2001 and the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 08 July 2002

were issued erroneously and are hereby **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period are required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/RRC:cmk

Telephone: (703) 306-5467

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Patrick B Law
Bell, Boyd & Lloyd LLC
PO Box 1135
Chicago, Illinois 60690-1135

In re Application of	:	
Christensen et al	:	
Application No.: 09/806,563	:	
PCT Application No.: PCT/DE99/03101	:	DECISION ON
International Filing Date: 28 February 2001	:	
Priority Date: 30 September 1998	:	PETITION UNDER
Attorney Docket No.: 112740-201	:	
For: METHOD TO TESTING SUSCRIBER ACCESS LINES	:	37 CFR 1.47 (a)

This is in response to applicants' "PETITION TO PERMIT FILING UNDER" under 37 CFR 1.47 (a), filed on 19 April 2004.

BACKGROUND

On 27 September 1999, applicant filed international application number PCT/DE99/03101 which claimed priority to an earlier filed German application filed on 30 September 1998.

On 30 March 2001 applicants filed a submission to enter the national stage application under 35 USC 371.

On 17 November 2003, the United States Patent and Trademark Office issued a Notification of Missing Requirements, requiring an Oath or Declaration in compliance with 37 CFR 1.497 (a) and (b).

On 19 April 2004, applicants submitted a response to the Notification of Missing Requirements along with a petition for a three month extension of time under 37 CFR 1.136 (a). The response consists of "PETITION TO PERMIT FILING UNDER 37 CFR 1.47 (a)", along with a newly executed declaration and power of attorney.

DISCUSSION

A petition pursuant to 37 CFR 1.47 (a) to accept the application without the signature of one of the joint inventors must include: 1) an oath or declaration signed by all available joint

inventors on their own behalf and on behalf of the non-signing inventor; 2) proof that the non-signing inventor refuses to join in an application for patent or cannot be found or reached after diligent effort; 3) the petition fee; and 4) the last known address of the non-signing inventor.

Petitioners have satisfied items (3) and (4).

With regard to item (1), the declaration submitted 19 April 2004, is not in compliance with 37 CFR 1.497. The declaration comprises three "page 4" s, each executed by a different inventor. Applicants must submit the complete original declaration (or a complete copy thereof) of each separately executed declaration. Applicants cannot merely piecemeal pages of separately executed declarations into a single composite declaration.

With regard to item (2), the petition does not include sufficient proof that the non-signing inventor refuses to sign. The proffered evidence consists of an a declaration by Desiree Gobel, employee of Siemens AG, the assignee of the international application, stating that a copy of the application has been sent to Svend Christensen on three separate occasions requesting signature, specifically on March 27, 2001, December 5,2003 and February 2,2004. As stated in the declaration by Desiree Gobel, "On February 02, 2004 I telephoned Mr. Christensen and he indicated the he needed the documents sent to him by fax and by email. In response to Mr. Christensen's request, I faxed and emailed the documents to him the same day. A copy of this email is included herewith as evidentiary support of this communication. Mr. Christensen informed me that he refuses it sign these documents". Applicants failed to provide a copy of email communications between applicants and nonsigning inventor, secondly there is no details about the alleged express oral refusal (e.g. no specific time or date of the refusal), and thirdly no document of evidence of receipt of the completed copy of the application (the fact that Mr. Christensen indicated on 02 February 2004 that he needed the documents suggests that the earlier delivery attempts were not successful).

Attention is directed to MPEP 409.03(d), which provides in part:

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the non-signing inventor's attorney. Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts.

For the above reasons, it would not be appropriate to grant the petition under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition to permit filing under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47 (a)." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Michael Lebentritt
Detailee
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Telephone (703) 308-6162
Facsimile (703) 308-6459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
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29 MAR 2005

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WILLIAM E. VAUGHAN
BELL, BOYD & LLOYD, LLC
POB 1135
CHICAGO, IL 60690-1135

In re Application of	:	
CHRISTENSEN et al.	:	
Application No.: 09/806,563	:	DECISION on
PCT No.: PCT/DE99/03101	:	
Int. Filing Date: 27 September 1999	:	RENEWED PETITION
Priority Date: 30 September 1998	:	
Attorney Docket No.: 112740-201	:	UNDER 37 CFR 1.47(a)
For: METHOD FOR TESTING SUBSCRIBER LINES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 04 January 2005 in the United States Patent and Trademark Office (USPTO). Applicants' request for four month extension of time is granted. The petition is also being treated as a petition under 37 CFR 1.181 to accept a copy of the 04 January 2005 response in lieu of the original papers.

BACKGROUND

On 17 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 19 April 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a statement of facts by Desiree Gobel.

On 29 June 2004, a decision dismissing the petition was mailed to applicants indicating that the declaration was not in compliance with 37 CFR 1.497(a) & (b) and the petition did not provide sufficient proof that the non-signing inventor refused to sign the application.

On 14 March 2005, applicants forwarded, via facsimile, a copy of a response to the decision allegedly filed on 29 December 2004 and received in the USPTO on 04 January 2005.

DISCUSSION

The original renewed petition under 37 CFR 1.47(a) filed on 04 January 2005 is not located in the application file.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May 2004)(MPEP):

> 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.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the renewed petition (2 pages), request for extension of time (1 page), statement of Ignacio Marc Asperas, Georg Rami and Andreas Winter including Exhibits A-F (22 pages) were deposited with the USPTO on 04 January 2005.

The evidence submitted is sufficient to establish that a response to the 29 June 2004 decision in this application was received in the USPTO on 04 January 2005. The communication filed 14 March 2005 includes a copy of these papers. Accordingly, it is appropriate to accept the copy of the papers as a replacement for the missing original papers with a deposit date of 04 January 2005. The evidence submitted by applicant, the postcard receipt date-stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

Renewed Petition under 37 CFR 1.47(a)

As previously stated, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has previously satisfied Items (1) and (3).

Although applicant provided the statement of facts of Ignacio Marc Asperas, Georg Rami and Andreas Winter including Exhibits A-F, Item (2) is not yet satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application

> papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Christensen. The 22 September 2004 letter to Mr. Christensen suggests that only an assignment and a declaration of inventors for the above-identified application were sent to him. A complete copy of the application papers must be provided to the non-signing inventor before it can be concluded that Mr. Christensen is refusing to sign the application papers. It is noted that the "Certified Receipt" (Exhibit F) is illegible and does not provide an indication that the 22 September 2004 letter was received by Mr. Christensen. Additionally, while the statement of facts signed by Mr. Asperas indicates that on 10 September 2004, Mr. Christensen was non-cooperative, no detailed explanation regarding his conclusion of non-cooperation is provided. Applicants have not yet shown that Mr. Christensen has received a complete copy of the application papers and has refused to sign.

Item (4) has not been satisfied. The declaration filed 15 March 2005 is identical to the declaration filed with the 19 April 2004 petition and is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes three "Page 4". As noted in the 29 June 2004 decision, this suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship, residency and mailing address of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

Legal Administration.

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02 AUG 2005

#17

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WILLIAM E. VAUGHAN
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CHICAGO, IL 60690-1135

In re Application of	:	
CHRISTENSEN et al.	:	
Application No.: 09/806,563	:	DECISION on
PCT No.: PCT/DE99/03101	:	
Int. Filing Date: 27 September 1999	:	RENEWED PETITION
Priority Date: 30 September 1998	:	
Attorney Docket No.: 112740-201	:	UNDER 37 CFR 1.47(a)
For: METHOD FOR TESTING SUBSCRIBER LINES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 05 July 2005 in the United States Patent and Trademark Office (USPTO). Applicants' request for two month extension of time is granted.

BACKGROUND

On 17 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)&(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, were required. The NOTIFICATION set a two-month extendable period for response.

On 19 April 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a statement of facts by Desiree Gobel.

On 29 June 2004, a decision dismissing the petition was mailed to applicants indicating that the declaration was not in compliance with 37 CFR 1.497(a) & (b) and applicants did not provide sufficient proof that the non-signing inventor refused to sign the application.

On 14 March 2005, applicants forwarded, via facsimile, a copy of a response to the decision originally filed on 29 December 2004 and received in the USPTO on 04 January 2005.

On 29 March 2005, a decision dismissing the petition was mailed indicating, *inter alia*:

> The declaration filed 15 March 2005 is identical to the declaration filed with the 19 April 2004 petition and is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes three "Page

4". As noted in the 29 June 2004 decision, this suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship, residency and mailing address of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

On 05 July 2005, applicant filed a renewed petition under 37 CFR 1.47(a) along with five executed declarations including a declaration executed by the previously nonsigning inventor Svend Christensen.

DISCUSSION

With the submission of a declaration executed by the previously non-signing inventor Svend Christensen the petition under 37 CFR 1.47(a) is now moot.

Petitioner presents five declarations; each of the declarations filed 05 July 2005 is executed by a single inventor. Four of the declarations are composed of four pages which identify all of the inventors and provide the citizenship, residency and mailing address of the inventors. However, the declaration executed by the previously nonsigning inventor Svend Christensen does not contain a page 4 and fails to identify Ulrich Lieflander and Dr. Hans-Werner Rudolf as inventors. The declaration is not in compliance with 37 CFR 1.497(a)-(b). As noted in the earlier decisions, this suggests that all pages of the declaration were not present at the time of execution for the inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. The executed declaration must identify all of the inventors and the citizenship, residency and mailing address of each inventors.

Contrary to applicant's contention that "the incorporation of 'page 4' at the bottom of the document is incidental to the overall document", page 4 identifies only three of the five inventors. This is not incidental to the declaration and is required. See 37 CFR 1.497(a) and (b) and 1.63(a)(3).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **MOOT**. For the reasons stated above, the declaration executed by Svend Christensen is unacceptable and is not in compliance with 37 CFR 1.497(a)-(b).

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

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#19

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CHICAGO, IL 60690-1135

In re Application of	:	
CHRISTENSEN et al.	:	
Application No.: 09/806,563	:	DECISION on
PCT No.: PCT/DE99/03101	:	
Int. Filing Date: 27 September 1999	:	SUBMISSION OF
Priority Date: 30 September 1998	:	
Attorney Docket No.: 112740-201	:	DECLARATION
For: METHOD FOR TESTING SUBSCRIBER LINES	:	

This is a decision on applicants' "Petition to Accept Declaration of Svend Christensen Under 37 CFR 1.497" filed 05 October 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)&(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, were required. The NOTIFICATION set a two-month extendable period for response.

On 19 April 2004, applicants filed a petition under 37 CFR 1.47(a). On 29 June 2004, a decision dismissing the petition was mailed. On 14 March 2005, applicants forwarded, via facsimile, a copy of a response to the decision originally filed on 29 December 2004 and received in the USPTO on 04 January 2005.

On 29 March 2005, a decision dismissing the petition was mailed. On 05 July 2005, applicant filed a renewed petition under 37 CFR 1.47(a) along with five executed declarations including a declaration executed by the previously nonsigning inventor Svend Christensen. On 02 August 2005, a decision indicated that the petition was moot and advised that the declaration signed by Mr. Christensen was not in compliance with 37 CFR 1.497(a)-(b).

On 05 October 2005, applicants filed the instant "Petition to Accept Declaration of Svend Christensen Under 37 CFR 1.497".

DISCUSSION

On 05 July 2005 , applicant presented five declarations; each of the declarations filed was executed by a single inventor. Four of the declarations were composed of four pages which identified all of the inventors and provide the citizenship, residency and mailing address of the inventors. However, the declaration executed by the previously nonsigning inventor Svend Christensen did not contain a page 4.

In the petition filed on 05 October 2005, counsel enclosed "a full copy of the declaration of Svend Christensen, which includes page 4 of the declaration that was *inadvertently omitted* at the time of filing at the USPTO". (Emphasis added.) The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith that Mr. Christensen was presented with the complete four page declaration and that page 4 was inadvertently omitted from the submission of 05 July 2005. If this is incorrect, Petitioner must immediately notify the USPTO. The declaration of Mr. Christensen is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.497 is to accept the declaration of Svend Christensen is **GRANTED**.

The declaration executed by Svend Christensen is acceptable and is in compliance with 37 CFR 1.497(a)-(b). The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 05 October 2005.

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SEP 21 2001

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In re Application of SCHEFFLER et al. Serial No.: 09/806,603 PCT No.: PCT/DE99/02938 Int. Filing Date: 15 September 1999 Priority Date: 30 September 1998 Attorney's Docket No.: 55618 For: CIRCUIT FOR FRAME RATE CONVERSION	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to "PETITION TO CORRECT CORRESPONDENCE FILING DATE FOR 'DATE-IN' INCORRECTLY ENTERED OR OMITTED ON EXPRESS MAIL LABEL (37 CFR§1.10(d))" filed 25 May 2001 requesting that the above-identified application be accorded a filing date for national stage papers of 30 March 2001, the date petitioner avers that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10.

BACKGROUND

On 15 September 1999, applicant filed international application No. PCT/DE99/02938, which claimed a priority date of 30 September 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 April 2000.

On 27 March 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 30 March 2002.

Applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, a copy of the international application, and English translation thereof and the basic national fee, which the United States Designated/Elected Office (DO/EO/US) accorded a filing date of 02 April 2001.

On 02 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

DISCUSSION

The original "Express Mail" mailing label No. "EL835032473US" is located in the application file and bears the entry 02 April 2001 in the "Date-In"box on the label. It also bears a PTO Mail Center date stamp of "APR 02 2001".

37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

Petitioner has satisfied item (1) above as the petition is considered promptly filed. Item (2) above is satisfied since the number of the "Express Mail" mailing label "EL835032473US" was placed the transmittal letter prior to the original mailing by "Express Mail".

With regard item (3), applicant submitted the declaration of Deanna Rivernider, legal assistant to the attorney of record along with a copy of the Express Mail logbook prepared by Ms. Rivernider for the dates 29 March and 30 March 2001. The logbook entry for 30 March 2001 provides the date (3/30/01), time (2:10 p.m.), attorney docket number (55618), Express mail label no. (EL835032473US), location of post office (Marlboro Post Office), initials of legal assistant (DMR), date entered (3/30/01), time (2:30 p.m.) and last pick up (5:30 p.m.)

In her declaration, Ms. Rivernider explains that on March 30, 2001, at approximately 2:10 p.m., she deposited the above referenced application with the U.S. Post Office located at 20 Florence Street, Marlborough, Massachusetts as an Express Mail Delivery addressed to the Box Patent Application-PCT. Ms. Rivernider further indicates that she attached an accurate copy of the Express Mail log that she maintains. She states that "[t]he logbook page indicates that the above-identified application was deposited with the Marlborough Post Office on March 30, 2001 at 2:10 p.m. I returned to the office at approximately 2:20 p.m. and entered the information into my logbook at 2:30 p.m. before leaving the office ...".

The daily log submitted contains: (1) the "Express Mail" number; (2)the place, date and time of deposit; (3) the time of the last scheduled pick-up for that date and place of deposit; (4) the depositor's initials or signature; and (5)the date and time of entry in the log. The evidence came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail". Thus, the evidence provided is sufficient to establish that the correspondence

was deposited with the USPS on 30 March 2001. *See* MPEP 513, p.500-47 (Rev.1, Feb 2000).

Accordingly, it is appropriate, on the present record, to accord the application a corrected filing date of 30 March 2001.

CONCLUSION

Applicant's petition under 37 CFR 1.10(d), requesting that the national stage application papers be accorded a filing date of 30 March 2001 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

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PCT Legal Office

Cynthia M. Kratz
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CMK/RRC:cmk

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#2

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PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 03-LO-6740

First named inventor: Kamron M. Wright

International (PCT) Application No.: PCT/US99/14753 U.S. Application No.: (if known) Unassigned

Filed: 29 JUN 1999

Title: MOTOR ENDSHIELD ASSEMBLY FOR AN ELECTRONICALLY COMMUTATED MOTOR

REC
01
Legal Staff
International Division

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

RECEIVED
01 MAY 2001
Legal Staff
International Division

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee--required for all international applications having an international filing date before June 8, 1995; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee $_____(37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other that small entity - fee $ 1,240 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) (identify type of reply):
Concerning a Filing Under 35 USC 371

☐ has been filed previously on _____.
☒ is enclosed herewith.

04/05/2001 MNGUYEN 00000107 012384 09806604
03 FC:141 1240.00 CH

Burden Hour Statement: This form is estimated to take 1.0 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, 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.

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3. Terminal disclaimer with disclaimer fee

☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $_____for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

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.

02 April 2001
Date

Signature

Patrick W. Rasche
Typed or printed name

Telephone Number: (314) 621 5070

Armstrong Teasdale LLP
Address

One Metropolitan Square, Suite 2600

St. Louis, MO 63102

Enclosures:
☒ Response
☒ Fee Payment
☐ Terminal Disclaimer Form
☒ Certificate of Express Mail

MAY 30 2001

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John S. Beulick
ARMSTRONG TEASDALE
One Metropolitan Square, Suite 2600
St. Louis, MO 63102

In re Application of: WRIGHT, Kamron M., et al.	:	
U.S. Application No.: 09/806,604	:	DECISION ON PETITION
PCT No.: PCT/US99/14753	:	TO REVIVE ABANDONED
International Filing Date: 29 June 1999	:	APPLICATION UNDER 37
Priority Date: 30 June 1998	:	CFR 1.137(b)
Attorney's Docket No.: 03-LO-6740	:	
For: MOTOR ENDSHIELD ASSEMBLY FOR AN ELECTRONICALLY COMMUTATED MOTOR	:	

The petition to revive under 37 CFR 1.137(b) filed 02 April 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Applicants have also submitted an executed declaration. However, the declaration executes the provisional priority document (application number 60/091,257, filed 30 June 1998) rather than the international application. Accordingly, the declaration is not in compliance with 37 CFR 1.497.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than thirty months after the priority date.

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SEP 07 2001

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WASHINGTON, D.C. 20231
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St. Louis, MO 63102

In re Application of	:	
Saban et al.	:	
Application No.: 09/806606	:	DECISION ON
PCT No.: PCT/US99/14391	:	
Int. Filing Date: 25 June 1999	:	PETITION UNDER
Priority Date: 26 June 1998	:	
Attorney's Docket No.: 03-SM-6723	:	37 CFR 1.137(b)
For: Rotors Utilizing a Stepped Skew	:	

This is in response to the petition under 37 CFR § 1.137(b)" filed on 02 April 2001.

BACKGROUND

This international application was filed on 25 June 1999, and claimed an earliest priority date of 26 June 1998. A Demand electing the United States was filed on 26 January 2000, which was prior to the elapse of 19 months from the international filing date. Accordingly, the thirty-month time period to pay the basic national fee in the United States expired as of midnight on 26 December 2000. This application became abandoned with respect to the United States for failure to timely pay the basic national fee.

On 2 April 2001, applicants filed the instant petition and, *inter alia*, a Transmittal Letter and the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the required reply in the form of the required basic national fee.

Concerning requirement (2), the petition is accompanied by the required petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

As to requirement (4), no terminal disclaimer is required because the international filing date of this application was later than 08 June 1995.

The petition is accompanied by a signed declaration. However, the declaration is not clearly directed toward this application, since it only identifies the "specification of which was filed on June 26, 1998 as Application Serial No. 60/090,773" (the priority document) and is not specifically directed either toward the international application number nor the papers filed on 02 April 2001. Petitioner is therefore required to file a newly executed declaration directed toward this national stage of the international application, along with the surcharge under 37 CFR 1.492(e).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**, as discussed above.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

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MAY 3 1 2001

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Susan K. Lehnhardt
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In re Application of	
Yuri KOLESNIKOV, et al.	
Application No.: 09/806,645	DECISION ON
PCT No.: PCT/US99/16049	PETITION
Int. Filing Date: 15 July 1999	UNDER 37 CFR 1.137(b)
Priority Date: 16 July 1998	
Attorney Docket No.: 830010-2006.2	
For: TOPICAL COMPOSITIONS COMPRISING AN OPIOID ANALGESIC AND AN NMDA ANTAGONIST	

The petition to revive under 37 CFR 1.137(b) filed 02 April 2001 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the National Phase filing of the PCT Application No PCT/US99/01649 from the due date (January 16,2001) until the actual filing of this grantable petition pursuant to 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the application papers reveals that no oath or declaration of the inventors was filed with the petition.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/ EO/905) to

inform applicants that an oath or declaration of the inventors along with the surcharge fee under 37 CFR 1.492(e) must be filed in order to avoid abandonment of the application as to the national stage in the United States.

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